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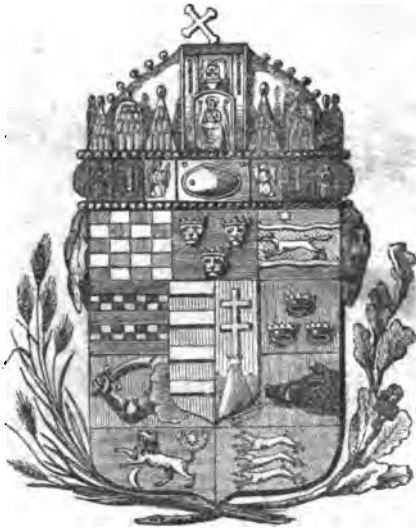


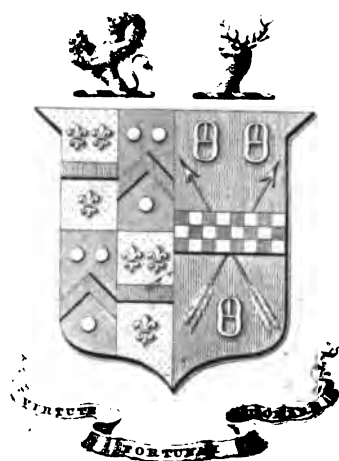


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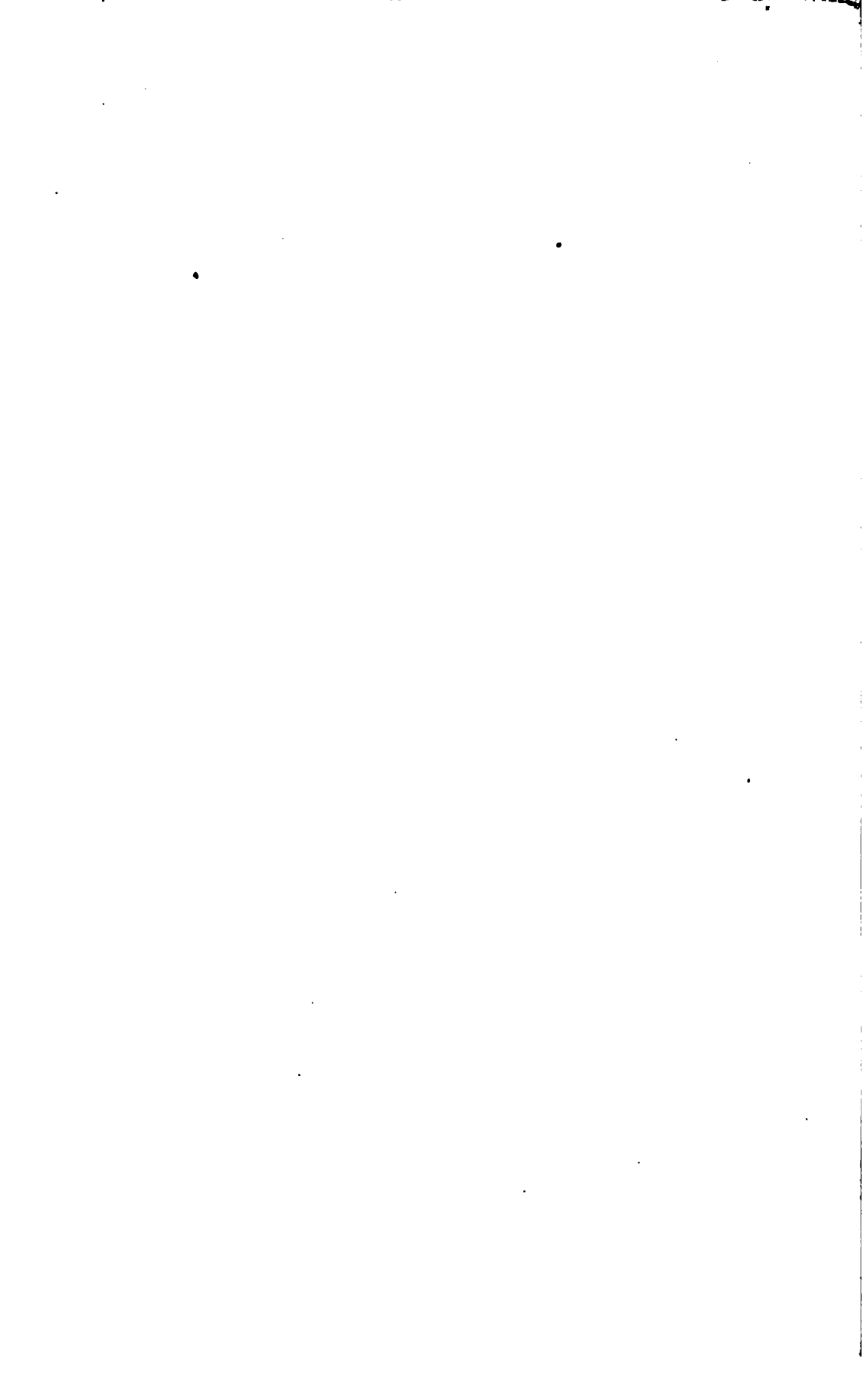
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# THE HUNGARIAN DIET OF 1861.

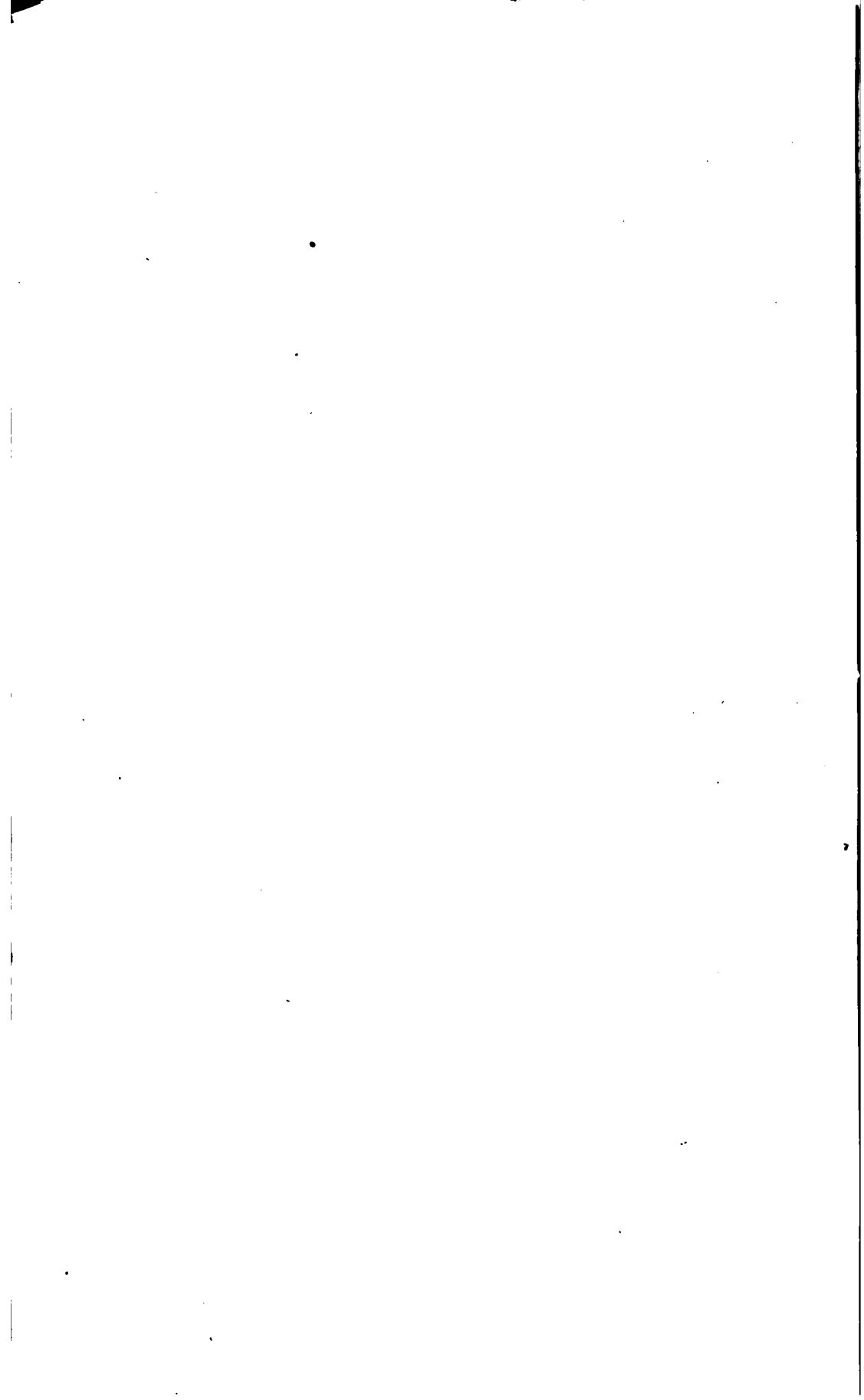




*William Whiston, Leicester.*







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62.8.5 Hungary, Országgyűlés  
X THE ADDRESSES OF  
THE HUNGARIAN DIET OF 1861,

TO H. I. M. THE EMPEROR OF AUSTRIA, WITH THE

IMPERIAL RESCRIPT AND OTHER

DOCUMENTS.

TRANSLATED FOR PRESENTATION TO MEMBERS OF BOTH

HOUSES OF THE BRITISH PARLIAMENT.

BY

J. HORNE PAYNE, Esq., M. A., LOND.

OF THE INNER TEMPLE.



LONDON :

BELL AND DALDY, 186, FLEET STREET.

1862.

JAN 20 1932

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## PREFACE.

**A**T the Congress of the Association for Promoting Social Science, held last year at Dublin, Lord Brougham, in his inaugural address, alluding to the Hungarian question, is reported to have thus expressed himself:—

“In Hungary the ancient Constitution as it existed before 1848 is restored, and the establishment of that which was formed in a season of civil war is alone refused.”

This language, from the mouth of so eminent an English statesman, excited great attention at Pesth, and produced a general anxiety among members of both parties that some step should be taken to correct the impression which a statement so inconsistent with fact, from so high an authority, could not fail to produce upon many who might incline to take some interest in the controversy then pending between H. I. M. the Emperor of Austria and his Hungarian subjects. This object, it was thought by the most eminent members of both parties, could best be attained not by an *ex parte* statement, but by placing without comment an English translation of the original documents—both the Addresses of the Diet and the Imperial-Royal Reply—in the hands of the Members of both Houses of the British Parliament.

Only too happy to embrace an occasion of showing, in however slight a degree, my gratitude for the truly unbounded hospitality with which I have everywhere been received, during a recent journey in

Hungary, I volunteered to accomplish this task, and have now—though too long delayed by the hindrances incidental to travelling, and since by a painful bereavement—brought it to a conclusion.

In preparing these sheets for the press I have carefully borne in mind the original object, and have not suffered myself to be led into a single expression of opinion. I have not even ventured in the Notes to suggest the analogy which frequently can scarcely fail to strike the reader between the Constitutional History of England and that of Hungary, as incidentally brought to light in these documents.

My primary care has been to ensure the closest accuracy in the translation, and I fear that in some cases the English idiom has been sacrificed to preserve verbal fidelity to the original. I must here acknowledge my obligations to my friends Baron Podmanicky, Vice-President of the House of Representatives of the late Hungarian Diet (a letter from whom I subjoin by permission), and Count Alexander Carolyi, who have carefully revised the text.

I have appended some Notes, which may be useful to those not conversant with the institutions of Hungary, and others to enable the reader to follow any particular point at issue at once through the several documents from first assertion to reply and rejoinder, and, by marginal headings, index, &c. to facilitate reference on future occasions.

Should my labours be the means of rendering these great utterances of the Hungarian people through its Diet more familiar to the few who watch with interest the moral struggle of a nation for freedom, I shall not think myself unrewarded.

*Pest.*

MY DEAR SIR,

I HAVE read with great pleasure the translation you have made of the highly interesting documents which have appeared during the late Diet at Pest.

I have taken the liberty to compare the English text with the Hungarian original documents. I can assure you that it seems to me impossible to reproduce the true sense of the original better or more accurately than you have done.

Not only the original ideas, but the single constructions are given with the utmost ability, and with that conciseness which is one of the principal characteristics of our national language.

I am very happy to have the opportunity of expressing to you, in the name of all my fellow-countrymen, a thousand thanks, not only for this laborious work, which you have completed in order to diffuse in your country a more accurate knowledge of the Hungarian question, but also for the sympathizing interest with which you have followed the debates and different events of our late Diet, so highly memorable for the future of our country.

If there is one country in Europe whose opinion is valued by us,—it is England, the powerful protector of constitutional and liberal principles throughout the world.

Your most obedient Servant,

BARON FREDERICK PODMANICKY,

*Vice-President of the House of Representatives.*

To J. HORNE PAYNE, Esq.

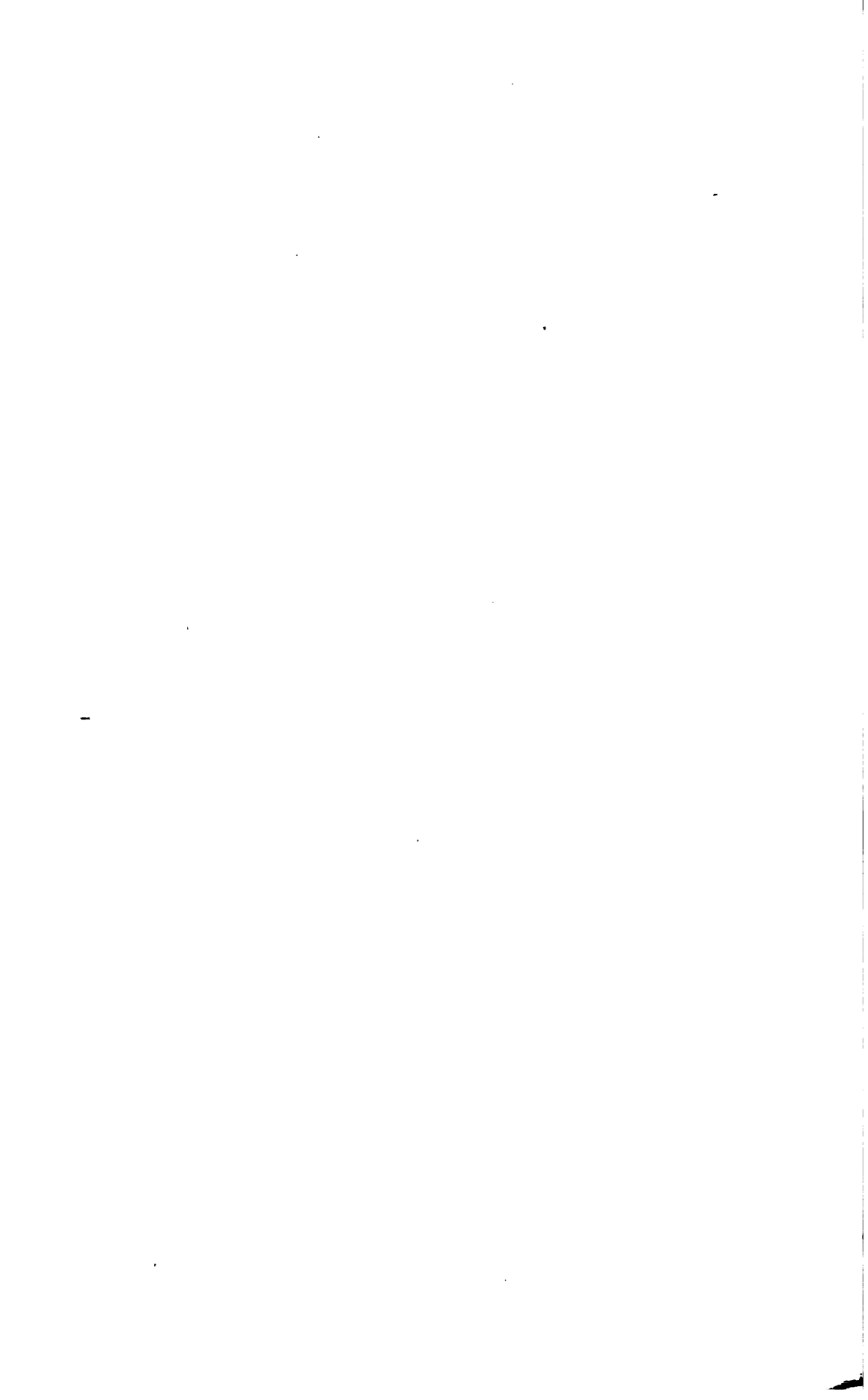
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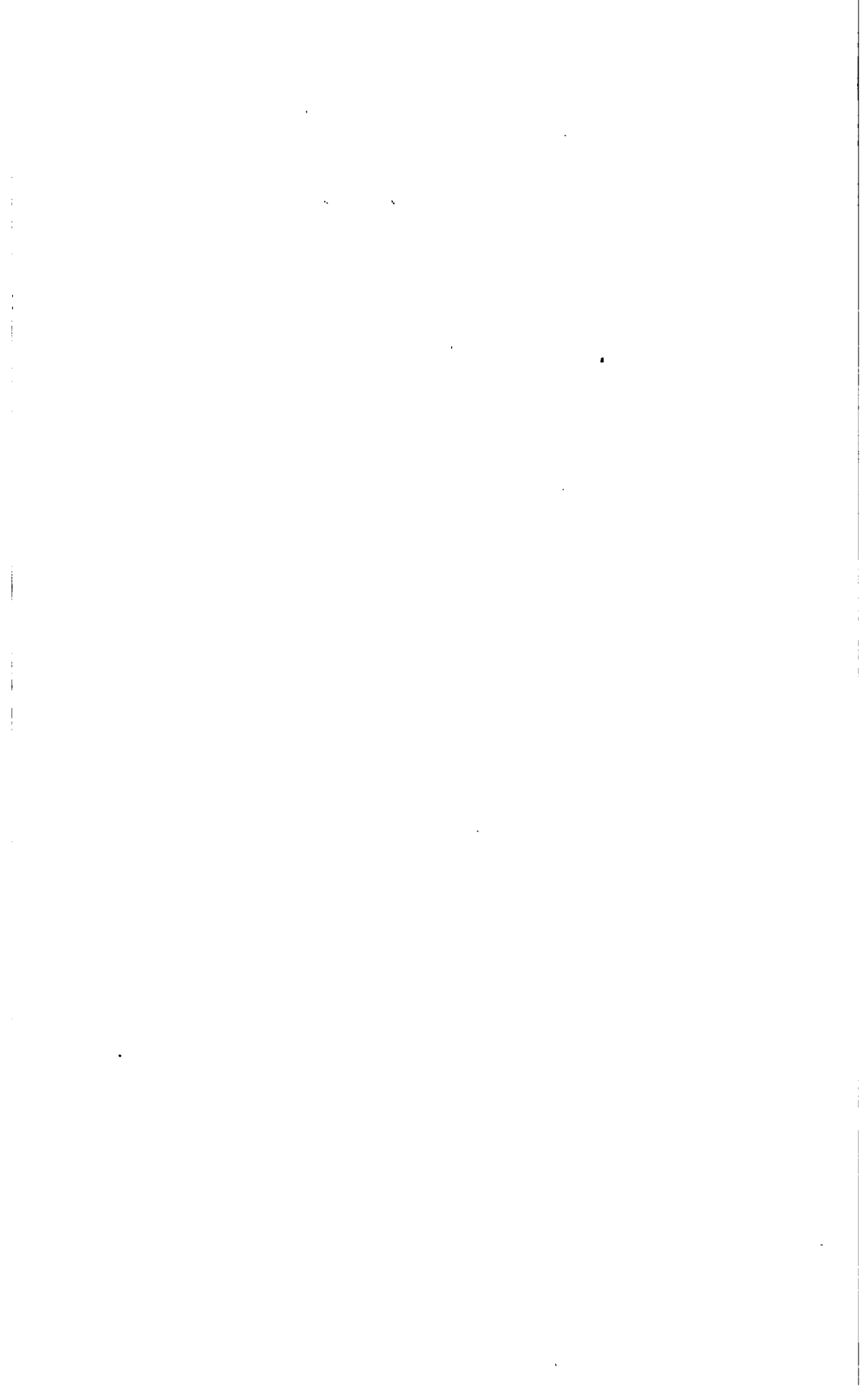


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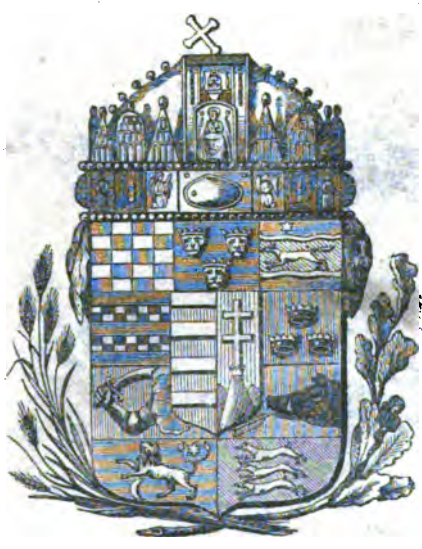


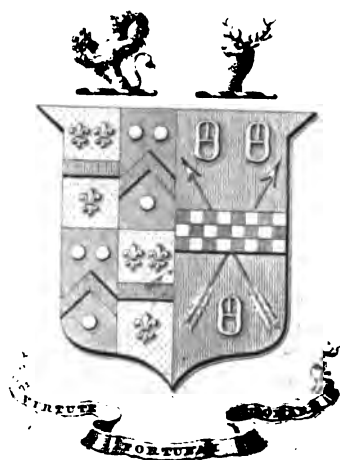


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# THE HUNGARIAN DIET OF 1861.





*William Wixom Loycester*



	<b>Pages</b>
<i>Notes.—Insurrectio</i> , p. 58. The “Aurea Bulla” of 1222. Its principal clauses. Repeal of the “armed resistance” clause in 1687, p. 75.	
PROTEST ADOPTED BY BOTH HOUSES OF THE LEGISLATURE ON THE 20TH DAY OF AUGUST, 1861	98—99
IMPERIAL DECREES DISSOLVING THE HUNGARIAN DIET OF 1861 . . . . .	100—101
DECREE OF DISSOLUTION dated 21st day of August, 1861, p. 100. DECREE appointing Count Francis Haller Royal Commissioner Plenipotentiary for execution of previous decree dated 21st day of August, 1861, p. 101.	
INDEX . . . . .	103—104

# HUNGARIAN DIET OF 1861.

## THE ROYAL WRIT OF SUMMONS.

*To the Counties, Boroughs, and Districts of Hungary,\**  
*dated Vienna, 14th February, 1861.*

**F**RANCIS JOSEPH by the grace of **GOD** Emperor of Austria; Apostolic King of Hungary, Bohemia, Galicia and Lodomeria; King of Lombardy, Venice and Illyria; Archduke of Austria, &c. &c. to Our

Right Reverend, Reverend, Right Honourable, and Honourable, Brave and Noble, Prudent and Well-deserving, **Faithful Subjects.**

**Whereas**, in consequence of the abdication<sup>b</sup> of His Majesty Our August Uncle the Emperor Ferdinand the First, King of Hungary and Bohemia of this name the Fifth, and of the resignation by Our dear father, His Imperial Royal Highness the Archduke Francis Charles, of His right of succession, We by virtue of the Pragmatic Sanction were called to the Throne: **We** on the 2nd of December, 1848, **made known** Our accession to all the peoples of Our Empire. **And Whereas** in compliance with our Diploma issued on the 20th of October, 1860, and in conformity with the constitutional laws of Hungary, We have resolved to summon and convene the General Diet of the Kingdom (intending, by the grace of God, to conduct it in Our own proper person) to meet on the 2nd day of April of the present year, 1861, at Our Royal free City of Buda, for the purpose of Our kingly Anointment and solemn Coronation, as well as for the delivery of Our Inaugural Diploma<sup>c</sup> of Oath into the hands of the Estates

RECITAL of  
abdication of  
Ferdinand I:

—of Archduke  
Francis  
Charles's re-  
nunciation:

—of present  
Emperor's  
accession and  
of publication  
of same:

—of determi-  
nation to con-  
vene a Diet;

for anointment  
and corona-  
tion:

\* The districts of Iazygia and Cumania.

<sup>b</sup> See First Add. §§ 42-44; Roy. Resc. § 27; Second Add. § 120.

<sup>c</sup> According to the Laws of Hungary, the King cannot be crowned

for election of Palatine; and Representatives of the Kingdom; for the election of the Palatine according to the 3rd Antecoronational law of

until he has taken the Coronation Oath, and issued the "Diploma Inaugurale."

Coronation-Oath: The Coronation Oath was first taken by Andreas II, who granted, in 1222, to the nobles of Hungary the first great charter of their rights, the 'Aurea Bulla.' (See note x, p. 75.) Its form until 1678 was as follows:—

its form: "Nos —, Rex Hungariæ, juramus quod ecclesias Dei, prælatos, barones, nobiles, civitates liberas, et omnes regnicolas in suis immunitatibus et libertatibus, juribus, privilegiis ac in antiquis et approbatis consuetudinibus conservabimus, omnibusque justitiam faciemus: serenissimi condam Andreæ Regis decreta observabimus, fines regni nostri Hungariæ, et quæ ad illud quoquo jure aut titulo pertinent, non alienabimus, nec minuemus, sed quoad poterimus, augebimus et extendemus, omniaque faciemus, quæ pro bono publico, honore et incremento regni nostri Hungariæ juste facere poterimus."

is altered. By the IVth Act, 1687, § 1, (see § 78, Second Add. and note) the 31st clause of the 'Aurea Bulla,' giving every noble the right of armed resistance to any attempt at the infringement of his privileges on the part of the King (compare 61st Chapter of the Magna Carta of King John), was abolished. Accordingly, the words, "exclusa tamen et semota art. 31 ejusdem decreti clausula incipiente," were introduced between "Andreæ Regis decreta" and "observabimus." With this exception the form of oath has not substantially varied.

Diploma Inaugurale: The "Diploma Inaugurale" was first issued by Andreas III, and promises "in verbo nostro regio," in a more detailed form, the maintenance of privileges and the remedy of abuses. The substance of the "Diploma Inaugurale" is the subject of deliberation between the Diet and the "Rex hæreditarius;" it is originally drawn up by the Diet, submitted to the King, and adopted after such changes as may be mutually agreed on.

That of Charles III.: The following "Diploma Inaugurale" of Charles III. (Roman Emperor the VIth of that name) is a fair example. It was issued on the 21st of May, 1712.

"Nos Carolus Electus Romanorum Imperator, quâ Hungariæ Rex agnoscimus:—

promises to observe laws and customs;

"1. Quod præter regiam hæreditariam successionem coronationemque, in reliquo universas et singulas Regni Hungariæ, Partiumque annexarum libertates, immunitates, privilegia, statuta, communia jura, leges et consuetudines, a divis condam Hungariæ regibus, prædecessoribus nostris concessas, in futurumque concedendas, et per nos confirmandas, in omnibus suis punctis, clausulis et articulis, prout super eorum usu et intellectu regio et communi Statuum consensu diætaliter conventum fuerit, firmiter et sancte observabimus, per aliosque omnes et singulos observari faciemus.

—that Crown shall be kept by certain wardens;  
—territorial integrity;

"2. Sacram regni coronam juxta leges patrias per certas de medio regnicolarum ad hoc delectas personas sæculares in hoc regno conservabimus.

"3. Hactenus recuperata et ex post recuperanda quævis hujus regni tenuta et partes, ad mentem etiam juramentalis formulæ eidem regno, et eidem annexis partibus, sub modalitate supradictæ interpretationis de usu et intellectu legum et privilegiorum, de toto reincorporabimus.

—reversion to Estates of right of election in event of failure of issue male;

"4. Quod in casum defectus masculini seminis nostri prærogativa regiæ electionis Statuum et Ordinum regni in pristinum rigorem redibit, et penes Regnum Hungariæ et annexas ejusdem partes illibate remanebit.

1608;<sup>d</sup> and further that we may—in accordance with the wish of our paternal heart, and with the view of promoting the happiness of the Kingdom and the increase of the com-

“5. Quoties Inauguratio regia intra ambitum regni Hungariæ successivis temporibus instauranda erit, toties hæredes nostri masculi futuri et coronandi hæreditarii reges præmittendam habebunt præsentis Assecurationis acceptationem, deponendumque superinde juramentum.

binds heirs and successors.

“6. Nos itaque præinsertos universos articulos acceptavimus, approbavimus, ratificavimus, et confirmavimus, promittentes et assecurantes Status et Ordines regni in verbo nostro Regio, quod præmissa omnia tam nos ipsi observabimus, quam per subditos nostros observari faciemus.”

Ratification.

A similar oath has been taken, and a similar “Inaugural Diploma” issued by every King of Hungary (except Joseph II.) since the accession of Andreas III.

At the beginning of the 16th century, King Uladislaus II. commissioned Stephen Verböczy to collect and codify the common Law of the Land. His “Opus tripartitum Juris consuetudinarii Regni Hungariæ” was presented to the Diet in 1514, and solemnly confirmed. “Nobiles nullius,” says this authority (Par. i. tit. 9), “præterquam Principis legitime coronati subsint potestati, ad quod observandum, quilibet Regum Hungariæ priusquam suum caput sacro diademate coronaretur; sacramentum præstare solet.”

Common Law of Hungary : Codified by Verböczy ; accepted by Diet of 1514 ; declares.

In 1687, what had previously been a recognized usage became Statute Law. The second Act of that year enacts :—“Universi Status et Ordines regni Hungariæ et Partium eidem annexarum declarant : quod in posterum neminem alium quam suæ cæsareæ et regiæ Majestatis (Leopoldi I.) masculorum hæredum primogenitum in perpetuum pro legitimo rege suo sint habituri, et diætaliter intra hoc regnum Hungariæ rite coronaturi erga semper toties, quoties inauguratio instauranda erit, præmittendam Articulorum Diplomaticorum acceptationem, seu regiam Assecurationem, deponendumque superinde juramentum, in ea, qua a majoribus suis præstitum esset forma.” “Articuli Diplomatici” were the articles or clauses of the Diploma Inaugurale.

Recognized usage becomes Statute Law. Act II, 1687.

Joseph II, above mentioned as the only king who did not take the oaths, &c. and was therefore not crowned, reigned despotically from 1780 to 1790, and then himself cancelled, and acknowledged as invalid, all the decrees he had issued, and made preparations for a legal coronation, which was prevented by his death.

Joseph II. not crowned.

To avoid the recurrence of such an event, was passed the third Act, 1790, providing that the coronation must take place within six months of the accession. The “Jura Majestatica,” *e. g.* the right of creating peers, only vest in the King by the act of coronation. See Note d, p. 45.

Act III, 1790.

<sup>d</sup> Act III, 1608, (antecoronational) :—

“Palatinum vero quod concernit; deliberant similiter idem Status, et Ordines, ut Sua Regia Majestas, duas ex Statu Catholico Romano et totidem Evangelicæ Confessionis Personas, eis quamprimum nominet, ac proponat: Ex quibus quemcunque ad gerendum tale officium magis idoneum fore judicaverint; invocato Numine Divino, eligere non intermittit.

Palatine : how elected.

“§ 1. Qui si opinione celerius (prout res sunt humanæ) fatis concederet; modum in eligendo altero in locum ipsius, idoneo, talem sua R. M. observare dignetur; ut infra Anni revolutionem, pro electione novi Palatini, peculiarem Generalem in Regno Diætam indicet, et promulget.”



and delibera-  
tion on subjects  
of importance.  
ACT OF SUM-  
MONS.

mon welfare—deliberate with the faithful Estates and Representatives of Our beloved Kingdom of Hungary upon several legislative matters of great importance: ~~We~~ **we hereby earnestly command and graciously direct** you to send and dispatch, without fail, to the place aforesaid and at the time appointed, deputies to be chosen and delegated out of your own body, in accordance with the electoral regulations issued on the basis of the 5th law of 1848; \* and that they be men studious of preserving peace, quiet and well-instructed, whose duty shall be to be present at the said Diet, and there together with other the Lords Spiritual and Temporal, Counts, Barons, Estates and Representatives of Our said Kingdom of Hungary and parts thereto annexed,† to hear more explicitly and further to discuss and deliberate upon Our gracious intention and

Electoral  
franchise :

upon whom  
conferred.

\* The electoral regulations issued on the 26th of February, 1861, confirm the Vth Act, 1848, with the exception of two unimportant clauses, respecting the place of holding the Diet, &c.

According to the Vth Act, 1848, every elector must have attained the age of twenty years; be Hungarian by birth or naturalization; not be under guardianship or in domestic service, nor convicted of fraud, theft, or murder, &c. Further, he must belong to one of the following five classes:—

- a. Owners of a fee-simple estate:—in towns, in houses or land of the absolute value of at least £30; in the country, in at least one-fourth of a session.

The "*sessio*" varies according to the character of the soil.—In the County of Stuhlweissenburg, where the fertility of the ground has perhaps reached its maximum, the peasant's allotment consists of seventy-two to seventy-five acres; of which about thirty-six acres are in meadow and pasture land. I am taking a case in which the "*commassatio*," i. e. the partition between lord of the manor and peasant-proprietor has been effected. Where the pastures and forests are still held in common, the number of acres in the peasant's freehold would be less.

- b. Manufacturers, merchants, tradesmen, or artisans possessing a manufactory, warehouse, shop, or workshop, provided they have at least one man in their constant employ.
- c. All who derive from real or personal property a fixed income of at least £10 a year.
- d. Physicians, surgeons, lawyers, civil engineers, artists of the academy, professors, members of the Royal Academy, apothecaries, clergymen, notaries public, or schoolmasters.
- e. Burgesses of free-towns before the passing of the Act.

"Partes Ad-  
nexæ."

† "*Partes Adnexæ*" is the denomination given to Croatia in the Statute-book. It has sometimes been contended by the Croatian delegates that Slavonia and the Hungarian Littoral ought to be included under that name.

Our propositions conceived entirely for the benefit, safety, and prosperity of the Kingdom.

**And We further assure** you of Our Imperial Royal Grace and Favour.

**Given** in Our Imperial Capital, Vienna, in Austria, on Datum. the 14th day of February, 1861.

**Francis Joseph,** m. p.

(L. S.)

NICHOLAS BARON VAY, m. p.

EDWARD ZSEDENYI, m. p.

SPEECH OF THE ROYAL COMMISSIONER,  
GEORGE COUNT APPONYI,

*On opening the Diet on the 6th of April, at the  
Royal Castle of Buda.*

INTRODUC-  
TION.

1.

HIS Majesty, on the occasion of fulfilling His Royal promise, given on the 20th of October of last year, sends to the assembled Legislature through me His greeting, in the conviction and faith that no difficulties and obstacles can fail to be surmounted if met by sincerity, by manly and reciprocal good-will.

2. When His Majesty, in the midst of the heavy cares caused by the painful times he has passed through, rested his hopes on the holding of the Diet, and awaited from the co-operation of the Estates and Representatives of this faithful and chivalrous nation the removal of the anxieties which weigh heavily on his paternal heart, the settlement of all complications and the happy solution of impending difficulties, He acted in unison with the constitutional feelings and the most ardent patriotic wishes of the people; nor will He on the other hand fail to be met by that noble loyalty which characterizes the nation and is its historical peculiarity.

3. His Majesty feels deeply the mistrust to which the remembrance of the past eventful years has given rise in His beloved land of Hungary,—the painful wounds, too, it has inflicted in his paternal heart. He knows that harmony, confidence, and sincere reconciliation can only be brought about by reciprocal respect for rights and mutual consideration of interests, that these means alone can assuage that pain and at the same time lay the foundation for a better and reassuring future.

The purposes  
for which Diet  
is convened.

4. His Majesty has convoked the legislative bodies that they may deliberate with Him on the restoration and maintenance of the Constitution of the Kingdom, on remodeling it to suit the requirements of present circumstances, and on further perfecting it in accordance with the lessons

of past experience. Whereas the dominion of the whole Empire, and consequently of Hungary and its annexed parts, has devolved upon Him through the Abdication<sup>a</sup> of His Imperial-Royal Apostolic Majesty, Ferdinand V, Uncle to His Majesty, and through the renunciation on the part of His Imperial Highness the Archduke Francis Charles of his right of succession, (concerning which the necessary Acts and Documents will be communicated to the Estates and Representatives of the Land,) :—the principal object of His Majesty in this step has been to receive the consecration of the Holy Crown of the first great King of the land;<sup>b</sup> and further, by the issue of the Inaugural Diploma<sup>c</sup> preliminary to the Coronation, and by the solemn oath to be taken before God and the world, to guarantee to his beloved Hungary and its annexed parts the faithful fulfilment of His Royal obligations, and to secure to Himself for ever the faithful attachment of the Hungarian people.

Recital of  
Emperor's  
accession;  
—of Abdication  
of Ferd. I;

—of Archduke  
Francis  
Charles's re-  
nunciation.

Coronation,  
principal object  
of the assem-  
bling of Diet.

5. Such being His most Gracious intentions, His Majesty is the more ready to satisfy the reasonable claims of the nation, because he is willing to believe that the principles, which exalt the attachment of the people to their constitutional institutions to the highest degree of piety, will produce a corresponding anxiety to maintain in their fullest integrity the Royal Rights and the Royal Authority, the indispensable conditions of the durability and prosperity of the State, and will manifest themselves both in the loyalty inherited from their ancestors and in a sincere appreciation of the undoubted evidences of the union existing for centuries between the several parts of the Empire. His Majesty holds it to be His Sovereign duty, whilst securing His

Expression of  
belief in loy-  
alty of nation.

<sup>a</sup> See First Add. §§ 42-44; Resc. § 27; Second Add. § 120.

<sup>b</sup> Saint Stephen (A. D. 1000-1038). In consideration of the great services this prince rendered to the Church, by establishing Christianity throughout his dominions, Pope Sylvester II. granted him permission to change his dukedom into a kingdom, and sent him a crown of gold, supposed to have been received direct from heaven at the hands of an angelic messenger; this crown is hence styled "Holy and Apostolic," and confers the like title on its wearer. It is kept in the castle of Buda, and watched by a chosen guard; two of the highest magnates (at present George Count Carolyi and Baron Pronay) are appointed its Wardens, and it is only in the presence of both these dignitaries that it can be exposed to public view, as is usually the case at the great national feast of St. Stephen. Antiquarian research has established that the actual Crown of Hungary is composed of two: the upper part is that above described; the lower was sent by the Byzantine Emperor Michael Ducas VII. to Geiza I, A. D. 1075.

The Crown of  
St. Stephen.

<sup>c</sup> See Note c, p. 1.

sovereign rights on all His lands and peoples, to extend equally to all the fruitful consequences of Constitutional Government; that all may find in this state a security for the present, may hold it as a hostage for, and nurture in it the seeds of, a more prosperous future for the whole State.

DIPLOMA OF  
20TH OCTOBER  
has laid down  
the principles  
which can lead  
to maintenance  
of objects of  
Pragmatic  
Sanction :  
viz. to  
strengthen  
bond between  
the several  
parts of  
Empire.

6. In the Diploma issued on the 20th of October,<sup>d</sup> His Majesty has pointed out the principles which can lead, both in Hungary and the Hereditary Provinces, to the maintenance and security of the objects of the Pragmatic Sanction,<sup>e</sup> due regard being had to the change of circumstances since the execution of the same; namely, to preserve and strengthen that bond which has existed for centuries between the several states constituting the entire Empire. This bond of union<sup>f</sup>—based upon the identity of the ruling House—and guaranteed by the Pragmatic Sanction, has proved the most sure defence against external dangers, and stimulus to internal development. Its maintenance is required not less by the interests of the reigning House than by those of all the peoples living under its dominion. His Majesty feels, however, that the definite constitutional regulation of these circumstances promises a healthy result in so far as it is made to accord with the constitutional internal relations of His beloved Hungary.

Object of  
Diploma of  
20th of Oct-  
ober, 1860.

7. Such were the motives which induced His Majesty to issue the Diploma of the 20th of October of last year. His object was to restore to Hungary the benefits of the Constitution, to enable the other provinces to participate in the same with similar political rights, and to ensure to the aggregate of all the Constitutional States composing the Empire a mutual and reciprocal co-operation in all circumstances and interests affecting them jointly and in common.

Although the  
Emperor was  
bound to fulfil  
the promises  
contained in  
said Diploma;

8. Although the firm conviction of His Majesty and the consciousness of His Sovereign duties,—although the necessity of satisfying the other parts of the Empire about to enter upon the enjoyment of constitutional rights, and the urgent claims of the material interests of the whole Empire to an immediate settlement of the constitutional organization, rendered it imperative that His Majesty should, as far as circumstances permitted, fulfil His Royal promise given on the 20th of October of last year, assuring constitutional

<sup>d</sup> See First Add. §§ 7-10; Rescr. §§ 3, 12, 14; Second Add. §§ 58, 136.

<sup>e</sup> See First Add. §§ 11, 17, 21; Rescr. § 3; Second Add. §§ 6-9, 17, 57, 60, 124-126, 135, 139.

<sup>f</sup> See First Add. §§ 18-26; Rescr. §§ 5-9; Second Add. §§ 18-54.

rights to His peoples:—Yet it could not be the will of His Majesty either to withdraw from Hungary and its annexed parts the legal competence of dealing with its own internal affairs and the rights therein originating, or to exclude the constitutional exercise of the due influence of Hungary upon those common affairs of the Empire which have previously been administered solely according to the will of the Sovereign without being subject to such influence, but which it has now been declared shall henceforth be discussed and decided constitutionally with the participation of the Representatives of these lands.

He could not wish to withdraw from Hungary right of legislation on its own internal affairs—or to exclude its due influence from common affairs of Empire.

9. The ordinances issued at a later period to this purport necessarily preceded the commencement of constitutional activity on the part of the Hungarian Legislature. Notwithstanding, His Majesty now convenes with full confidence the legislative bodies to discuss the circumstances thereto referring, as well as to deliberate and sincerely to express their opinion on the mode in which the definite organization rendered necessary by the change in the internal position of the Empire can be brought into accord with the constitutional rights of Hungary. His Majesty is the more anxious for the commencement of these discussions because it is necessary that the interests of His beloved Hungary should make their full weight felt in the first deliberations on the common affairs of the Empire. Therefore our most gracious Sovereign confidently trusts that the Estates and Representatives of the Land, whilst expressing themselves before the Throne with entire sincerity on circumstances of such high interest to the aggregate of the peaceloving peoples of the Empire, will keep before their eyes the example of those of their ancestors who knew how to unite and reconcile the constitutional rights of their country with the necessities and varying relations of the times.

Ordinances carrying Diploma of 20th of October into effect, necessarily preceded convening of Diet : It is now invited "to express its opinion on mode in which a definite organization can be brought into accord with the constitutional rights of Hungary."

10. Whereas His Majesty, having regard to the desired integrity of the Kingdom on the one hand, and to the development among the several races of national\* and constitutional feelings on the other, was compelled to leave time and means to a mutual arrangement to be arrived at freely and with avoidance of all coercion;—Whereas he was further compelled to hold certain ordinances of the Laws of the Land—which experience had shown not to afford adequate guarantee for the maintenance of His Sovereign

DEVELOPMENT of national feelings among the several races,

and incompatibility of certain laws with rights of Sovereign and Unity of the Empire,

\* See First Add. §§ 30-35; Rescr. §§ 19-22, 24, 25; Second Add. §§ 93-119.

have prevented  
immediate and  
complete re-  
establishment  
of Constitution.

His Majesty  
therefore lays  
all these ob-  
jects before the  
Legislature :

accedes to  
transfer of the  
sittings of the  
Diet to Pesth :

and reserves to  
Himself to  
communicate  
Royal Proposi-  
tions on filling  
up of offices  
and other  
measures.

rights and for the unity of the entire Empire—in abeyance<sup>b</sup> until the constitutional system should after a renewed revision come into full force:—in view of these necessities and relations aforesaid, which have been so great a source of anxious care to His Majesty, he did not deem it possible to carry out his determination to re-establish the Constitutional Government of His beloved Hungary at once, and to the full extent his paternal heart would have wished.

11. His Majesty, therefore, recognizing on the one hand the attachment of the country to its Laws, and on the other, keeping in sight the development of existing relations and the sovereign duties therefrom arising has desired nothing more earnestly than to lay all these objects of his most urgent care before the Legislature of His beloved Hungary; and expecting to find strong support in their zealous co-operation, and re-assurance in the constitutional expression of their opinion, His Majesty has further sincerely desired to find an opportunity of fostering and strengthening in the country the conviction, that he regards the satisfaction of the healthy wishes of the nation, as the dearest duty of His Sovereign calling.

12. With this view His Majesty has willingly acceded to the generally expressed wish of the country that the sittings of the Diet shall be transferred to the Royal Free City of Pesth and there continued. While decreeing for the present that the Estates and Representatives of the Land shall be invited to deliberate on the two hereinbefore-mentioned important matters, His Majesty reserves to Himself to communicate at the proper time Royal Propositions respecting the filling up the offices of the State, and other measures for the promotion of the general welfare of the Kingdom.

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<sup>b</sup> See First Add. §§ 4, 7, 37-39, 41; Rescr. § 30; Second Add. §§ 56, 81, 87, 138, 147.

# THE FIRST ADDRESS OF THE DIET OF HUNGARY,

TO H. I. M. THE EMPEROR FRANCIS JOSEPH  
DURING THE SESSION OF 1861.

IMPERIAL-ROYAL MAJESTY,

THE twelve years which have just elapsed have been to us a period of severe suffering. Our ancient Constitution has been suspended; we have been grievously oppressed by a system of absolute power hitherto unknown to us. The burden of this crushing system has been increased by "*employés*," who have carried it out with vindictive feelings, with narrow powers of apprehension, and often with evil intent. In their eyes the feeling of liberty was a crime; fond attachment to our nationality, and the purest patriotism were not less so. These men have exhausted the strength of our land, have converted the property of the nation to illegal purposes, and have made our nationality an object of persecution. Each day brought new sufferings; each suffering tore from our bosom another fibre of faith and confidence.

INTRODUCTION.  
Review of the  
past twelve  
years.

2. God so willed it that we should suffer, but that we should not despair or be untrue to ourselves; He has willed that an experience of twelve years should at last convince the Prince that a system of absolute power, without limitation or restraint, can never ensure the happiness of the peoples of his monarchy, but must lead Throne and Empire to destruction.

Absolute given  
place to con-  
stitutional  
system.

3. Hence his Majesty has been willing to abandon the absolute system for a constitutional one, and thus to place the fate of his peoples in their own hands.

4. We, too, have assembled as the Representatives of the Hungarian nation, to recommence our constitutional activity. The first step we are called upon to take, that of

Illegalities yet  
exist.



sending up an Address, is a painful one—not on account of past sufferings, for over these we will cast a veil—but because of the illegalities which still exist, and without the immediate suppression of which the re-establishment of our Constitution and Constitutional Government itself is impossible.

5. The fundamental requisite of our constitutional and national existence is the independence of our country in accordance with the provisions of its ancient laws. It is, therefore, our first and most holy duty to devote our united strength and all our capabilities, that Hungary may remain Hungary, that her constitutional independence may remain unimpaired.

6. When this independence is menaced with dangers, when its existence is threatened, we know no duty more incumbent, no obligation more urgent, than to raise our common voice against the attack.

Even independence threatened by *partial* and *conditional* restoration of constitution : By DIPLOMA OF 20TH OCTOBER.

7. And this, the constitutional independence of our country, is threatened even by the very first step which his Majesty has taken in a constitutional direction. It has been violated in that the Hungarian Constitution has been only re-established *conditionally*,<sup>a</sup> deprived of its most essential attributes. It has been violated by the Diploma of the 20th of October, which served as the basis of the speech with which the Diet was opened.<sup>b</sup>

Its effects.

8. This Diploma would rob Hungary for ever of the ancient provisions of her Constitution, which subject all questions concerning public taxation and the levying of troops, throughout their whole extent, solely to her own Diet; it would deprive the nation of the right of passing, in concurrence with the King, its own laws on subjects affecting the most important material interests of the land. All matters relating to money, credit, the military establishment, customs and commerce of Hungary—these essential questions of a political national existence—are placed under the control of a general Council of the Empire,<sup>c</sup> a body the

<sup>a</sup> See Royal Sp. § 10; First Add. §§ 37-39, 41; Rescr. § 30; Second Add. §§ 56, 81, 87, 138, 147.

<sup>b</sup> See Royal Sp. § 6; Rescr. §§ 3, 12, 14; Second Add. §§ 58, 136.

<sup>c</sup> The "Reichsrath," or Council of the Empire, is composed of two Chambers. The Upper consists of life-members, with the exception of some few, in whose families the dignity is made hereditary. The delegates to the Lower are elected by the Diets of the several Provinces. The following are the numbers allotted to each:—to Hungary, 85; Transylvania, 26; Croatia and Slavonia, 9; Galicia and Lodomeria, 38; Bukovina, 5; Bohemia, 54; Lombardo-Venetian Kingdom, 20; Dalmatia, 5; Illyrian Coast, 6; Lower Austria, 18;

Reichsrath.

majority of whom would be foreigners. There these subjects would be discussed from other than Hungarian points of view, with regard to other than Hungarian interests. Nor is this all; in the field of Administration this Diploma makes the Hungarian Government dependent on the Austrian—on a Government which is not even responsible; and which, in the event of its becoming so, would render an account not to Hungary, but to the Council of the Empire, which would give us no guarantee for our interests, where they should come into collision with those of Austria.

9. Were this idea to be realized, Hungary must cease both in legislation and administration to be independent; her most essential interests would be subject to the legislation and administration of the Austrian Empire; in a word, she would remain Hungary only in name, whilst in reality she would become an Austrian province.

Would render Hungary an Austrian province.

10. This forcible attempt directed, in defiance of right, against us and our constitutional independence, is not only in opposition to our laws, but is an attack on the Pragmatic Sanction<sup>d</sup>—on that fundamental State-compact concluded in the year 1723 between Hungary and the reigning House.

11. When our ancestors, in that year, extended to the female descendants of the House of Hapsburgh the right of succession to the Hungarian Crown, they stipulated for certain specified conditions. They provided that in Hungary the succession should be regulated by the same laws of inheritance which obtained in the Hereditary States, and that accordingly the Throne of Hungary and that of the Hereditary States should devolve on the same member of the reigning House. Neither Charles III,<sup>e</sup> Hungary, nor the Hereditary States wished to see the Sovereign divide his possessions amongst his children, as had often previously been the case, and even in the reign of Ferdinand I. But whilst they laid the foundation of the principle, that the several countries could neither be severed nor dissociated as possessions of the Sovereign, they guarded against the extension of this principle, whether in form or substance, to the Administration or Government. In the 9th paragraph of the 2nd Article<sup>f</sup> they stipulated, unequivocally and ex-

Independence of the country stipulated for by PRAGMATIC SANCTION.

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Upper Austria, 10; Salzburg, 3; Styria, 13; Carninthia, 5; Carniola, 6; Tyrol, 12; Upper and Lower Silesia, 6; total, 343. Of these 151 seats have not been filled.

<sup>d</sup> See Roy. Sp. § 6; First Add. §§ 17, 21; Rescr. §. 3; Second Add. §§ 6-9, 17, 57, 60, 124-126, 135, 139.

<sup>e</sup> Reigned from 1711-1740.

<sup>f</sup> Act II, 1723, § 9:—"Taliterque eandem successionem fœmineam, in Act II, 1723.

pressly, that the 3rd Act of 1715<sup>a</sup>—which guarantees to the nation that the Sovereign shall never rule or govern Hungary otherwise than in accordance with the own laws of the Kingdom theretofore made, or thereafter to be made, in its Diet—should be binding on the female line admitted to the succession by the said compact. They further specially stipulated that the King should be bound at all times to observe and maintain the rights, liberties, and laws of the land—should have himself crowned<sup>b</sup> on his accession to the Throne—should issue the Inaugural Royal Diploma,<sup>b</sup> and should take the Coronation Oath.<sup>b</sup>

Oath to which is an essential preliminary to coronation.

Joseph II. the only uncrowned regent.

His ordinances cancelled by himself: declared void by Diet.

Accession of Maria Theresa gave vitality to Pragmatic Sanction; she further confirmed it.

12. Thus the Pragmatic Sanction maintained in no ambiguous terms the independence of the country. To this its right the nation has at all times tenaciously clung, and upon this condition the Crown has passed to each Hungarian King who has ascended the Throne of Hungary since the Pragmatic Sanction was executed. Of the successors of Charles III, the Emperor Joseph II.<sup>1</sup> is the only one who has not had himself crowned, but has ruled by absolute and arbitrary force. Him Hungary never acknowledged as lawful King: his legislative and administrative ordinances, which himself cancelled in the last days of his life,—and not only these, but the donations and privileges which he granted to private persons, were declared void at law; witness the 32nd Act of the year 1790.<sup>b</sup>

13. Maria Theresa<sup>1</sup> was the first Hungarian Sovereign who ascended the Throne of Hungary by virtue of the Pragmatic Sanction. Her accession to the Crown gave vitality to that compact. She faithfully complied with the conditions which were coupled with her own right of succession; she issued the Royal Inaugural Diploma,<sup>b</sup> took the Corona-

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Augusta Domo introductam et agnitam (extensis ad eam, nunc pro tunc, Articulis 2 et 3 anni 1687, et pariter anni 1715, 2 et 3) juxta ordinem supradictum stabiliunt."

Act III, 1715.

<sup>a</sup> Act III, 1715, § 1:—"Nec Status et Ordines Regni, eadem Sacra Regia Majestas secus regi aut dirigi vult, quam observatis propriis ipsius Regni Hungariæ hactenus factis, vel in futurum Diætaliter constituendis, Legibus."

<sup>b</sup> See Note c, p. 1.

<sup>1</sup> Reigned from 1780-1790.

Act XXXII, 1790.

<sup>b</sup> Act XXXII, 1790:—"Augustissimo quondam Imperatore et Rege Hungariæ hæreditario Josepho II. quominus solemnem suam de peragenda ritu legali sui coronatione promissionem explere potuerit, morte prævento, privilegia ejusdem, in quantum hæc ceteroquin ad præscriptum legis elargitus fuisset, non nisi tunc suum legalem obtinebunt vigorem, quando per suam majestatem nunc feliciter regnantem, legitime coronatum Hungariæ regem, fuerint confirmata."

<sup>1</sup> Reigned from 1740-1790.

tion Oath, and even gave Hungary, in the 8th Act of 1741,<sup>m</sup> a fresh guarantee that she would observe as sacred the liberties and the laws of the land; and solemnly declared that Hungary should never be governed in the manner of the Hereditary States.

14. The next Hungarian King, Leopold II,<sup>n</sup> who ascended the Throne on the death of his brother, the uncrowned Joseph II, not only took the oath at his coronation and issued the Inaugural Diploma,<sup>b</sup> but guaranteed the independence of the country in a more detailed form by a special Act. In the 10th Act of 1790,<sup>o</sup> he acknowledged and declared that, "although by virtue of the 1st and 2nd Acts " of 1723, which extended the right of succession to the " female line, the Crown of Hungary would always devolve " on the Sovereign who possessed, according to the established order of succession, the other Hereditary States; " yet Hungary, with its annexed parts, was notwithstanding a free kingdom, in the entire administration of its

Leopold II.  
gave additional  
guarantees.

<sup>m</sup> Act VIII, 1741:—"De clausulâ Diplomatis: '*Prout super eorum usu, et intellectu, Regio ac communi Statuum consensu diataliter conventum fuerit*:' ad fundamentalia Jura, Libertates, Immunitates, et Prærogativas Statuum, et Ordinum Regni nullatenus extendenda: Act VIII, 1741.

"Erga benignam S. R. Majestatis Declarationem sancitum est; fundamentalia Jura, Libertates, Immunitates, et Prærogativas Statuum et Ordinum Hungariæ, Partiumque eidem annexarum, signanter in Tit. 9, Part 1, Operis Decr. Tripart. et Artic. 6. anni 1723 velut in perpetuum ab omni Contributione ipsos eximentibus, adeoque eatenus etiam; ne Onus publicum Fundo quoquo modo inhæreat, eosdem immunitatibus, ac avito quoque usu firmatis, expressas, (cum alioquin etiam per Art. 3. anni 1715, super eo, quod ad normam aliarum Provinciarum non gubernabuntur, præcanti et assecurati existant) sub sensum Diplomati insertæ, '*de usu et intellectu Legum*' sonantis Clausulæ, nullatenus sumi posse."

See Note c, p. 1, and the *Diploma* cited in it.

<sup>n</sup> Reigned 1790-1792.

<sup>o</sup> Act X, 1790:—"Erga demissam Statuum et Ordinum Regni propositionem, Sua quoque Majestas Sacratissima benigne agnoscere dignata est, quod licet successio sexus fœminei Augustæ Domus Austriacæ per Articulos 1 et 2, 1723, in Regno Hungariæ Partibusque eidem adnexis stabilita, eundem quem in reliquis Regnis et ditionibus hæreditariis in et extra Germaniam sitis, juxta stabilitum successionis ordinem, inseparabiliter ac indivisibiliter possidendis, Principem concernat: Hungaria nihilominus cum Partibus adnexis sit Regnum liberum, et, relate ad totam legalem regiminis formam (huc intellectis quibusvis dicasteriis suis,) independens; id est, nulli altero regno aut populo obnoxium, sed propriam habens consistentiam et constitutionem, proinde a legitime coronato hæreditario Rege suo; adeoque etiam a Sua Majestate Sacratissima, successoribusque ejus Hungariæ Regibus, propriis legibus et consuetudinibus, non vero ad normam aliarum provinciarum dictantibus id articulis III, 1715, item VIII et XI, 1741, regendum et gubernandum." Act X, 1790.

"laws independent; that it was therefore not subservient  
 "or dependent on any other empire or people, but pos-  
 "sessed its own Constitution and Administration, and was  
 "to be governed not in the manner of the other provinces,  
 "but by its rightfully crowned King, in accordance with  
 "its own laws and customs." In another law, the 12th  
 Act of 1790,<sup>p</sup> he further acknowledged and declared that  
 "in Hungary the right of making, repealing, or interpret-  
 "ing laws belongs solely to the legally-crowned King and  
 "the Estates of the Realm in Diet legally assembled,  
 "jointly and in common;—that this right cannot be exer-  
 "cised otherwise than in and with the Diet; that the exe-  
 "cutive power may be exercised by the King, but only in  
 "accordance with the laws." Such being the text of the  
 law, such the clear and emphatic recognition of the Sove-  
 reign, is it possible to doubt the constitutional independence  
 of Hungary?

So Francis I,

15. Francis I,<sup>q</sup> on succeeding to the Crown at the death  
 of his father, guaranteed the maintenance of all the rights,  
 liberties, and laws of the nation in the Royal Inaugural  
 Diploma,<sup>h</sup> and further, at a later period, namely, in the  
 thirty-third year of his reign, by the 3rd Act of 1825,<sup>r</sup>

Act XII, 1790.

<sup>p</sup> Act XII, 1790:—"Leges ferendi, abrogandi, interpretandi, potes-  
 tatem in Regno hoc Hungariæ Partibusque adnexis, salva art. 8,  
 1741, dispositione legitime coronato Principi et Statibus et Ordinibus  
 Regni ad comitia legitime confluentibus, communem esse; nec extra  
 illa exerceri posse; Sua Majestas Sacratissima ultro ac sponte agnoscit,  
 ac se jus hoc statuum illibatum conservaturam, atque prout illud a  
 divis suis Majoribus acceperat, ita etiam ad Augustos suos Successores  
 inviolatum transmissuram, benigne declaravit, Status et Ordines se-  
 curos reddens, nunquam per edicta seu sic dicta Patentales, quæ alio-  
 quin in nullis unquam judiciis Regni acceptari possunt, Regnum et  
 Partes adnexas gubernandas fore; expeditione patentium ad illum  
 duntaxat casum reservata, ubi in rebus, legi alioquin conformibus,  
 publicatio debito cum effectu hac unica ratione obtineri valeret.  
 Proinde,

"Forma judiciorum lege stabilita aut stabilienda, auctoritate regia  
 non immutabitur, nec legitimarum sententiarum executiones mandatis  
 impediuntur aut per alios impediri admittuntur, nec sententiæ legitimæ  
 fororum judiciariorum alterabuntur, imo nec in revisionem Regiam  
 nec ullius Dicasterii politici pertrahuntur; sed secundum conditas  
 hujusque aut in futurum condendas leges et receptam Regni consuetu-  
 dinem, judicia per judices, absque discrimine religionis deligendos,  
 celebrabuntur.

"Executiva autem potestas, nonnisi in sensu legum, per regiam exer-  
 cebitur."

<sup>q</sup> Reigned 1792-1835.

Act III, 1825.

<sup>r</sup> Act III, 1825:—"Ad tollendam Statuum et Ordinum de conser-  
 vandis in suo rigore legibus fundamentalibus sollicitudinem, ex præte-  
 ritis eventibus [the attempts at extra-dietal levies of taxes and recruits]

renewed the declaration that he would carefully observe the hereinbefore quoted provisions of the 10th Act of 1790,<sup>a</sup> and publicly acknowledged that the questions of taxation and raising levies of troops could not be withdrawn from the Diet—that the taxes voted by it could not, under any pretext whatsoever, be augmented without its consent.

16. Ferdinand V.<sup>1</sup> gave the nation similar guarantees in his Royal Inaugural Diploma,<sup>b</sup> and still stronger in the laws he sanctioned in 1848.

and Ferdinand V.

17. The Pragmatic Sanction is not a simple law, a simple Royal Diploma, a grant or promise *octroyé*; it is a fundamental Deed of Contract executed in pursuance of a previous mutual understanding and agreement, by which, on the one hand, our ancestors solemnly renounced, in favour of the female descendants of the House of Hapsburgh, their rights to proceed to the free election of a King, in the event of the extinction of the male line; on the other hand, Charles III. (who in the 3rd Act of 1715<sup>a</sup> publicly recognized the right of the nation to a free election), in consideration of the aforesaid surrender, covenanted for the fulfilment of the conditions for which the nation stipulated, namely, for the preservation of the independence of the country, of its rights, liberties, and laws. This bilateral, fundamental State-compact, concluded after free mutual understanding, came into full force with all its annexed conditions; it was maintained by each succeeding crowned King: its guarantees were repeated and renewed in more detailed forms; and this compact, equitably concluded, received the further consecration of a rightful observance. Can or dare one of the parties to this conven-

Pragmatic Sanction a reciprocal compact.

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ortam : Sua Majestas de eo persuasa, quod felicitas Regis et Regni exacta legum observantia et incolumitate nitatur, atque, si juribus seu Regis seu Regni Statuum quidpiam decerpatur, legum et legalis Regni systematis compages subruenda sit, declarare dignitata est : quod præcipuis accenseat curis, constitutionem regni, inaugurali suo juramento firmatam, omni tempore tueri, ac conservare, ac ideo etiam articulos X, XII et XIX, 1790 et 1791, tam ipsa constanter observatura, quam per alios observari factura sit.”

<sup>a</sup> See Note o, p. 15.

<sup>1</sup> Reigned 1835-1848.

<sup>a</sup> Act III, 1715:—“ Sacra Cæsarea Regiaque Majestas, successionem Hæreditariam juxta tenorem benigni Diplomatis sui immediate præinsinuato Articulo secundo, nunc inserti, sufficienter declaratam, clementer resolvit dirigendam; et deficiente demum masculino sexu, a Divo condam Leopoldo et Rege descendente, avitam et veterem, approbatamque consuetudinem, prærogativamque Statuum et Ordinum, in electione et coronatione Regum, locum suum habituram esse.”

Act III, 1715.

The succeeding § 1, has been quoted *supra*, Note g, p. 14.

tion violate it? Can the nation be called upon to fulfil the obligations therein contained, and the conditions coupled with these obligations be set aside, or carried out but partially, and in isolated particulars?

NATURE OF  
UNION with  
Hereditary  
States "personal" not  
"real."

18. The nature of the existing legal link,<sup>\*</sup> which connects us with the Hereditary States is clearly and precisely expressed both in the Pragmatic Sanction and in our other laws; it consists in the identity of the reigning House—in the "Personal Union." Of a closer bond, of a real union, there is not the slightest trace to be found in our laws; nay, the Acts above-mentioned establish beyond a doubt not only that between us and them a real union never existed, but that Hungary never had the intention of bringing such a union about.

Same conclusion drawn from political relations of Hungary and Hereditary States.

19. If we take into consideration the political relations of Hungary and the Hereditary States the same conclusion necessarily follows. Had the Pragmatic Sanction not been executed, A.D. 1723, on the extinction of the male line of the House of Hapsburgh by the death of Charles III, in 1740, Hungary would have been free to elect its King. It would then not have been impossible—nay, if we bear in mind the great influence which France exercised at that period on the politics of Europe, if we throw into the scales the personal character of Frederick II, and remember that it was in the interest of the French Court and of Frederick to weaken the House of Austria—it will appear probable that not Maria Theresa, but another would have been elected Sovereign of Hungary. In that case Hungary would have had her separate King, and the monarchy could not have received its present form.

Extinction of ruling Dynasty would dissolve the Union.

20. Should a contingency, not probable indeed in our times, but yet within the limits of possibility, come to pass—should the female line, too, of the present dynasty become extinct—the right of freely electing a King would, in accordance with the Pragmatic Sanction, revert to the nation; and, if Hungary should elect a separate King, the empire, whose unity Austrian statesmen are so anxious to bring about at the price of Hungarian independence, would of its own accord fall to pieces. It would resolve into its component parts, not through the application of any external force, but of right, solely because the one link which united them—the ruling dynasty—had ceased to exist. Were there any other bond between us and the Hereditary States it would

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<sup>\*</sup> See Royal Speech, § 6; Rescript, §§ 5-9; Second Address, §§ 18-54.

hold the whole State together as long as it continued ; thus, for example, the extinction of the reigning House would not dissolve the union between England, Scotland, and Ireland, because these countries are connected by a "real" and not a "personal" union.

21. Nay, it may happen that the Empire will legally fall to pieces before the entire extinction of the reigning Dynasty. For the Pragmatic Sanction accepted by the Hereditary States decrees that upon failure of issue of the branches of Charles III. (of Hungary the 6th of that name) and of Joseph I, the succession should devolve upon the daughters of Leopold I. and their heirs, and upon further failure of issue of these, then upon the other branches of the reigning House, and their issue in order of Primogeniture. The Hungarian law of succession decrees in the second Act of the year 1723, that upon extinction of the lines of Charles III. and Joseph I, the succession should pass to the line of Leopold I, but the succession is in no contingency extended to the other lines of the reigning House. If, therefore, the issue of Charles III, Joseph I, and Leopold I. should fail, Hungary would have the right to choose her own King ; whilst the Hereditary States would be compelled by the Pragmatic Sanction by them accepted to recognize as Sovereign a member of the hereinbefore mentioned other branches of the reigning House. This very essential difference constitutes a striking proof of the assertion that between Hungary and the Hereditary States no real Union has ever existed.

Dissolution of Empire may come to pass before extinction of Dynasty, through an essential difference in Acts of Settlement of Hungary and Hereditary States.

22. We will mention yet another circumstance which clearly indicates that in the Government and Administration of Hungary and the Hereditary States no real union has existed or can exist. According to the laws of Hungary the Palatine of the Kingdom is the guardian of the King during his minority. This is decreed by the 2nd Act<sup>v</sup> of the laws passed in 1485 on the Dignity of Palatine, which were confirmed by the 1st Act of 1681,<sup>z</sup> the 5th Act of

Same conclusion confirmed by the different provisions made in Hungary and Hereditary States for regency, in event of minority of King ;

<sup>v</sup> Act II, 1485 :—"Si quispiam Regum, hæredem in tenerâ ætate constitutum, reliquerit, Palatinus ex officio tenetur, et debet, illum, tanquam Tutor, in Regnis, et dominiis paternis conservare, et fideliter defendere.

Act II, 1485.

"§ 1. Cui quidem Palatino interim, quoad hæres ipse in adultam pervenit ætatem ; universi illius subditi, et Regnicolæ, perinde ac vero Domino, et Regi, semper obedire, et in omnibus rebus obtemperare teneantur."

<sup>z</sup> Act I, 1681, after declaring Count Paul Esterhazy Palatine, enumerates and confirms the several Acts on the dignity of Palatine, and among them the 2nd Act of 1485.

Act I, 1681.



1715,<sup>7</sup> and, subsequently to the execution of the Pragmatic Sanction, by the 9th Act of 1741,<sup>8</sup> and the 5th Act of 1790.<sup>9</sup> On the other hand, in the Hereditary States the guardianship of the King during his infancy devolves on his nearest paternal relative. In the event, therefore, of the minority of the King the highest authority would, according to law in Hungary, vest in one person, in the Hereditary States in another. Can, then, any other or closer bond than the identity of the reigning House subsist between countries whose Government and Administration differ so widely in form and system, and with respect to the ruling persons? Is, under such circumstances, a nearer "real" union even conceivable without a radical transformation of the political relations of one of the two countries?

by past and present political position of Hereditary States Hungary did not form part of the Romano-Germanic Empire, to which Hereditary States belonged.

23. Let us consider the political position of the Hereditary States in its past and present. When the Pragmatic Sanction was concluded the Hereditary States belonged to the Romano-Germanic Empire: of this empire Hungary never formed a part. The feudal character of the several countries of the Romano-Germanic Empire was so opposed to the anti-feudal, and, with respect to every other power, independent Hungary, that it would have been impossible to bring about between such States any union other than a personal one.

Francis I. assumes title of Emperor of Austria. His Manifesto.

24. Later, at the fall of the Romano-Germanic Empire, Francis I. assumed in 1804 the hereditary title of Emperor of Austria; but in his Manifesto<sup>b</sup> of the 17th of August of

Act V, 1715.

<sup>7</sup> Act V, 1715, declares the election of Count Nicolaus Erdödy to the office of Palatine, vacant by the death of Count Paul Esterhazy, and further confirms Act I, 1681, and the several Acts therein cited.

Act IX, 1741.

<sup>8</sup> Act IX, 1741:—

"*Demissæ Statuum, et Ordinum Regni, Representationi annuente S. R. Majestate, statutum est:*

"§ 1. *Quod Palatinale, et, ei Lege junctum Locumtenentiale Officium, quoties imposterum vacaverit; ultra annum vacare non sinetur:*

"§ 2. *Idemque in plenam et legalem Authoritatem, atque Jurisdictionem repositum; in eadem conservabitur:*

"§ 3. *Quâ quidem Legali Jurisdictione tam modernus, quam futuri Regni Palatini, plene fungantur.*"

Act V, 1790.

<sup>9</sup> Act V, 1790, reconfirms with peculiar solemnity and at great length all existing Statutes on the occasion of the election of the Archduke Alexander Leopold, fourth son of the Emperor King Leopold II, to fill the office of Palatine.

Extract from Manifesto of 1804.

Francis I. assumes title of Emperor of Austria.

<sup>b</sup> "En vertu de quoi nous nous sommes déterminés, après des délibérations longues et mûres, d'adopter formellement pour Nous, et pour nos successeurs dans la possession inséparable de nos royaumes et de nos états indépendans, le titre et la dignité d'Empereur héréditaire d'Autriche, (conformément au nom de notre Auguste Maison) en sorte que nos royaumes, principautés et provinces conserveront invariablement

that year he gave Hungary the solemn assurance that he had not the slightest intention of curtailing her rights, laws, and Constitution by the adoption of this title, but that the political situation of Hungary should remain precisely as before.

25. At present the Hereditary States are members of the German Confederation. Towards it they have obligations to perform involving burdens to support; the decisions of the Confederate League have binding force on all the states belonging to the Confederation. On the other hand, Hungary is not a member of the German Confederation; the German interests, which the Austrian provinces are bound to protect and further, are for us foreign interests. The power of the Confederation, which, in the Austrian provinces, possesses, in some points, binding authority, is to us entirely foreign. Germany may carry on a war in its own interests, or its frontier may be attacked; Austria may be compelled to take part in such a war, and to join in defending the menaced frontier; but *their* war is not *our* war, *their* interests not *our* interests; they will not assist us in our battles, or aid us to repulse an attack on our frontier, for we are not members of the Confederation. Is it possible that countries politically so differently situated should be connected more closely than by a personal union? What surety should we possess that in a Council of the Empire, whose overwhelming majority is bound to the German Confederation, in accordance with the essential principles of the League,—that, in such a council, where our interests were not identical with those of the Confederation,

Hungary not a member of German confederation.

Consequent divergency of its interests from those of Hereditary States.

leurs titres, constitutions, prérogatives, tels qu'ils ont été jusqu'à présent. D'Après cette détermination et cette déclaration nous ordonnons;

“ 1°. Qu'immédiatement après notre titre d'Empereur élu du Saint Empire Romain et de la Germanie, il soit ajouté celui d'Empereur héréditaire d'Autriche, suivi de notre titre de Roi de Germanie, Hongrie, Bohême, etc, ainsi que de celui d'Archiduc d'Autriche, de Duc de Styrie, etc, et ensuite de ceux de nos autres pays héréditaires.

“ 3°. Tous nos royaumes et autres possessions conservant invariablement, comme il a déjà été dit, leur ancien état et leur dénomination, ce cas doit avoir lieu principalement pour le royaume de Hongrie, ainsi que pour ceux de nos états héréditaires qui, jusqu'à présent, ont été en rapport immédiat avec l'Empire Germanique, et qui conserveront à l'avenir ces mêmes rapports, conformément au privilège conféré par nos prédécesseurs à notre Auguste Maison.

“ 4°. Quant aux couronnemens qui ont eu lieu pour nous et nos prédécesseurs comme Rois de Hongrie et de Bohême, il en sera toujours invariablement de même, comme par le passé.” From Imperial Manifesto of Aug. 17, 1804.—See *Moniteur Universel*, Aug. 27, 1804.

our rights would be respected, and our interests spared? A closer union would place us under the control of an Austrian majority, it would make us dependent on an entirely foreign policy,—that of the German League, whilst we could claim no corresponding services in return.

Answer to  
allegation that  
interests of  
Hungary must  
be subordinate  
to those of  
whole Empire.

26. It is alleged against us that the interests of the Empire claim the highest consideration, and that the interests of the individual parts must be subjected to that of the whole. This assertion would be incontestable only in a monarchy resting on one and the same political basis, whose single component parts had united themselves unconditionally, between whom a “real” union existed. The compact which Hungary concluded was with the reigning House, and not with the Hereditary States; the subject of the contract was the Right of Succession, and not a closer political union; nay, the contract specially covenants for the independence of the country, and its disconnection from any other. Hungary will at all times be ready to support and maintain this contract, but she most certainly does not intend to change it or to replace it by a closer union; she does not purpose binding herself to the interests of the Hereditary States, and thus renouncing her constitutional independence. As in public, so in private relations, there exist numerous engagements which one or other of the contracting parties finds inconvenient; but if every such contract could be cancelled, because an alteration would suit the interest of one of the parties,—if moreover it could be so cancelled that one of the parties should be held bound to its share of the covenants made, whilst the other should be at liberty to repudiate the obligations incurred, then indeed would law and contracts fail to give security, and power alone would be the measure of right.

Example of  
Sweden and  
Norway.

Assertion of  
friendly feel-  
ings towards  
the peoples of  
Hereditary  
States.

*DECLARA-  
TION*—that  
the Country is

27. If we take the example of Sweden and Norway, we see how two states in the purest personal union can subsist side by side; and we, who are similarly connected with the Hereditary States by a personal union, but are politically independent of one another, why should we not also be able to subsist in brotherly relations towards each other, whilst mutually respecting our several rights and interests? Whilst protecting the constitutional independence of Hungary against the assault of force, whilst guarding ourselves against the closer union which it is attempted to force upon us, as a condition for the partial restoration of our constitution, we are far from intending to show hostility towards the constitutional peoples of the Hereditary States. We do not wish to endanger the existence of the monarchy, but

are prepared, on a basis of equity and from considerations of expediency, to go beyond what strict legal obligation would require of us, and to do all that a due regard for our independence and constitutional rights will allow, in order that the crushing burdens resulting from the reckless policy of the hitherto existing absolute system may not annihilate at once the prosperity of the Hereditary States and our own, that the ruinous consequences of the past hard times may be averted from us both. But we will enter into deliberations with them only as one independent and free country with another; it is only on this footing that we can bring our interests into unison with theirs, and we distinctly repudiate any subjection or incorporation, whether legislative or administrative, for this would signify a sacrifice of our independence, to which it is impossible for us to consent.

willing to go beyond legal obligations in assisting to support the burdens imposed by,—and in averting from both Hered. States and itself,—the consequences of past misgovernment; but will deliberate only as one free country with another:

28. We therefore hold it necessary solemnly to declare that we can sacrifice to no considerations and to no interests of whatsoever kind the constitutional and legal independence of our land, which has been guaranteed to us by a fundamental State-compact, by Statutes, by Royal Inaugural Diplomas, and by Coronation Oaths, that we shall cling to it as the essential condition of our national existence. Hence we cannot consent to the withdrawal from the province of the Hungarian Diet of the right to decide all and every matter concerning public taxation, and the raising of military forces. As we entertain no wish to exercise the right of legislation over any other country, so we can divide with none but the King the right of legislation over Hungary; we can make the Government and Administration of Hungary depend on none other than its King, and cannot unite the same with the government of any other lands; therefore we declare that we will take part neither in the Council of the Empire, nor in any other assembly whatsoever of the Representatives of the Empire; and further, that we cannot recognize the right of the said Council of the Empire to legislate on the affairs of Hungary, and are only prepared to enter on special occasions into deliberation with the constitutional peoples of the Hereditary States as one independent nation with another.<sup>c</sup>

—that Diet will sacrifice to no considerations constitutional independence of the land;

—that it cannot consent to surrender its right of determining Public Taxation and raising military forces;

—that it will take no part in Council of the Empire, and does not recognize right of Council to legislate on affairs of Hungary.

29. Another important point on which it is our duty at once to raise our voice is the Completion of the Diet.<sup>d</sup>

NON-COMPLETION OF DIET:

30. Neither Transylvania, Croatia, Slavonia, the military frontier, nor Fiume and the Litorale, is represented

<sup>c</sup> See Rescr. § 18.

<sup>d</sup> See Roy. Sp. beginning of § 10; Rescr. §§ 19-22, 24, 25; Second Add. §§ 93-119.

amongst us, although they form constituent parts of our Diet, because the writs for election to which they are entitled, by the unambiguous decrees of our laws, have been withheld.

A violation of political integrity guaranteed by Pragmatic Sanction, &c. &c.

31. The Pragmatic Sanction, the Royal Inaugural Diplomas, and the Coronation Oaths of the Sovereign have declared at all times that the integrity of the country should be preserved unimpaired. This integrity does not consist only in protecting the limits of the soil from encroachment, but comprehends also its political integrity; if, therefore, the Executive Power makes it impossible for any part of the country, or for any one of the countries belonging to the Hungarian Crown, to take its constitutional part in the most important political functions of the kingdom, and to exercise, in common with the rest, its rights of legislation, then the Executive is guilty of a violation of the political integrity of the land.

Diet anxious to meet by legislation the just claims of their non-Magyar fellow-citizens;

32. The sorrowful events of the past have given rise to dangerous misunderstandings between us and our non-Magyar fellow-citizens. These, in the interest of their nationalities, and Croatia, in the interests of its political position, have claims to make which we must not and would not ignore; we are resolved to leave nothing undone to remove these misunderstandings—to do all that we can do, without handing over the kingdom to dismemberment, or sacrificing our independence, to fuse together all our countrymen, of whatsoever nationality, in their interests and feelings. We are anxious to modify, in accordance with our common interests, and from an equitable point of view, every enactment of our laws which may offer obstacles to this our endeavour; but that we may carry out our intentions a previous “Completion” of our Diet is indispensably necessary.

but previous “Completion” indispensable.

There is no obstacle to prompt summoning of representatives of Transylvania.

Its Union legally accomplished by resolutions of both Diets, sanctioned by King:

33. To the prompt summoning and appearance of the Representatives of Transylvania nothing stands in the way. The union of Transylvania with Hungary was legally completed in 1848, in pursuance of a solemn and unanimous resolution of both the Hungarian and Transylvanian Diets declaring such to be their common wish. The said acts of union received the sanction of His Majesty, and were immediately put in force. When constitutional forms were set aside, and the Absolute System took the place of freedom, the administration of Transylvania was severed from that of Hungary; but now that His Majesty has abolished the Absolute System, the illegal consequences of that system should of themselves unconditionally cease. It necessarily follows that those laws, too, which unite Transylvania to Hungary—laws which absolute power could temporarily

refuse to execute, but cannot annihilate—should be, by the recognition of the Constitutional Principle *ipso facto* restored to vitality. To make the Union an open question, to invite new decisions respecting it, and thus to stir up afresh the feelings of excitement, would not only be a breach of the laws, but a grievous political error. To refuse the speedy accomplishment of the *de facto* union would not be “to decline to unite Hungary and Transylvania,” but “to tear the two violently asunder,” an act in direct violation of the Pragmatic Sanction.

Cannot be set aside without breach of Laws.

34. We believe the non-Hungarian nationalities of Transylvania will not see in the Union any danger to their national interests, because the deliberations held, and the resolutions to be adopted respecting our own fellow-citizens of other nationalities, will reassure them, and inspire them with complete confidence.

35. With regard to Croatia, we do not require that the demands they make, and the conditions for which they stipulate, should be submitted to the decision of a Diet, in which our numerical superiority would give us a preponderating influence over the comparatively small number of their representatives. Croatia possesses her own territory, and has the right to assume a distinct position; she was never incorporated with Hungary, but was united to us, as a joint partner of our rights and our obligations, of our prosperity and adversity. If therefore Croatia wishes to take part as a kingdom in our legislation,—if she wishes first to settle the conditions upon which she is prepared to ally her political position with that of Hungary, if in this matter she wishes to negotiate with us as one nation with another, we are ready to accept the proposition; all that we require is that Croatia shall not be prevented from sending her Deputies to our Diet by the Executive Power, and that thus means may be afforded us of entering upon the work of mutual understanding on the basis of political right.

Case of Croatia.

36. So long as those who, according to law, ought to have been summoned to the Diet, have not been summoned, we cannot regard the Diet as complete, and are, therefore, incapacitated from passing laws, or entering into negotiations respecting the coronation.

Until its Completion Diet is incapacitated from passing laws or entering into negotiations respecting Coronation.

37. Neither can we pass over in silence, in this our first address, the continued suspension of our most important fundamental laws, including the essential laws of 1848.\* We

CONTINUED SUSPENSION of Fundamental

\* See Roy. Sp. end of § 10; Rescr. § 39; Second Add. §§ 56, 81, 87, 138, 147.

laws; Parliamentary government, responsible ministry, laws on the Press, trial by jury not restored; Taxes imposed without consent of Diet, and extorted by armed force.

have no parliamentary government, no responsible ministry. Our laws regulating the press, and the trial by jury in connection with it, have not been restored. In opposition to the distinct enactments of our laws, direct taxes have been imposed, without the intervention of the Diet, by arbitrary power; these, as well as oppressive indirect taxes, unknown to our law, and never accepted by the nation, are even yet continually extorted by a foreign machinery; and, as if to destroy our belief in the proclaimed withdrawal of the absolute system—as if to prevent hope and confidence from again taking root in our breasts, in bitter irony the constitution-hating Absolute Power, has just issued an edict decreeing the collection of illegal taxes by force of arms. And this takes place at the very moment when the Diet, summoned by the Sovereign, is assembled, and when the nation is called upon to fulfil the duties imposed upon it by the Pragmatic Sanction, and to proceed to the coronation; whilst, on the other side, not even an earnest intention is shown of fulfilling the conditions coupled with this obligation. We are not astonished that the Absolute Power when it set aside our Constitution also suspended our laws; for a parliamentary government, liberty of the press, coupled with trial by jury, and the fundamental right of the nation which permits no imposition of taxes but in and with the Diet, would stand in direct collision with an absolute system: but after His Majesty has solemnly repudiated the Absolute System, and has entered upon a constitutional course, the laws which the Absolute Power has suspended must *de facto* regain their full authority.

One branch of the Legislature cannot abrogate a statute passed by the whole.

38. Sanctioned laws can only be abrogated by the power which brought them into existence. In a constitutional country only the entire legislature can create a law. For one member of the legislature to set aside the same, or, whilst professing Constitutionalism, to hold in abeyance statutes which were suspended by the Absolute Power because incompatible with that system, is a proceeding which militates against every constitutional conception.

39. One of the clear enactments of the Pragmatic Sanction is that the King shall maintain every law passed by the Diet. The laws which the Absolute System suspended were passed in the ordinary course of legislation and sanctioned by the King; they retain, until the nation consents to their amendment or repeal, the force of binding statutes; to render them inoperative, or to hold them in abeyance, is therefore equivalent to a breach of the clear conditions of the Pragmatic Sanction.

40. A Parliamentary Government, a Responsible Ministry, Freedom of the Press, with its concomitant Trial by Jury, and the Right of Self-taxation, are the strongest guarantees of constitutional liberty. Our sanctioned laws have given us these guarantees, and never shall we consent to their abrogation or curtailment, however modified; we shall always regard a temporary suspension of these laws as a suspension of the Constitution—as a denial of the Constitutional Principle itself.

Diet will never consent to curtailment of guarantees of constitutional liberty given by Law, but will regard any suspension as a denial of constitutionalism.

41. We wish to develop and secure our constitutional life on the basis of equality of rights. We wish that all citizens of our country should enjoy the same civil rights without any distinction of religion or nationality. We are anxious in this present session to modify all and every of our laws which tend to limit the enjoyment of the fullest equality in this respect, in accordance with the claims of justice and equity. But if our suspended laws are not restored to their full authority, if the still-existing illegal consequences of that illegal suspension are not immediately removed, the nation, whilst deprived of all the guarantees of constitutional freedom, cannot enter upon any new legislative deliberations, or into any negotiation; for to what purpose should it proceed to the creation of *new* laws, when it sees that the *old* fundamental laws are still suspended by the arbitrary act of one branch of the Legislature, even after the Sovereign has summoned together the Representatives of the nation to commence their Constitutional labours? We therefore declare that we distinctly and urgently demand the immediate and complete restoration of the laws rendered inoperative by the Absolute System, and the immediate cancelling of ordinances imposing illegal taxes, and decreeing the unlawful collection of the same.

Whilst *old* laws are still suspended, nation cannot create *new*.

Diet therefore urgently demands that Laws rendered inoperative should be put in force, and illegal ordinances cancelled.

42. We must also raise our voice concerning the documents communicated to us with reference to the abdication of Ferdinand V, which took place in the year 1848.<sup>1</sup> When His Majesty Ferdinand V. abdicated the Imperial Crown, on the 2nd of December, 1848, he issued no special notification respecting the Hungarian Crown; nor did he even allude to Hungary in his abdication, but treated her as a province of the Imperial Crown, and included her in the general Act. The Act of Abdication is therefore incomplete in form in the eye of Hungarian state-law. Hungary

ABDICATION of Ferdinand V; Documents relating thereto invalid.

<sup>1</sup> See Writ of Summ. § 1; Roy. Sp. § 4; Rescr. § 27; Second Add. § 120.



was at no period of her history an incorporated province of the Austrian Empire ; she possesses her own crown and her own constitutional independence, and the King of Hungary could only abdicate the crown with the knowledge and assent of the nation.

Diet solemnly protests against any conclusion to be drawn from them as precedents ;

and for better security of rights of the Land in future requests certain notifications.

43. We therefore solemnly protest against any conclusion which might be drawn from the general tenor of the Act of Abdication of the 2nd of December ; and holding firm to our constitutional independence, we solemnly protest against the said Act having been completed without the assent or knowledge of the nation. But now that this has *de facto* irrevocably taken place, we request, for the better security of the rights of the kingdom in future, that His Majesty may procure from His Majesty the King Ferdinand V. the issue of such an Act of Abdication as shall be directed specially to Hungary, in which His Majesty Ferdinand V. shall notify to the Diet that on the 2nd of December, 1848, he did in reality abdicate the Crown of Hungary ; and further, that His Majesty may obtain from His Imperial Highness the Archduke Francis Charles a similar notification, to the effect that His Imperial Highness did, in the year 1848, renounce his right to the succession which devolved upon him, in accordance with the Pragmatic Sanction, on the abdication of Ferdinand V.

Notifications to be embodied in an act.

44. These notifications will be discussed at their proper time in the Diet ; they must be incorporated in a statute, in order that, *ex post facto* at least, that may be rectified which ought to have been done at the time. Our solemn protest and the subsequent co-operation of the country, must, for the future further assurance of our rights, be expressed in the laws.

POLITICAL CONDEMNATION demands that results of sentences passed by illegal tribunals shall cease.

45. In consequence of political persecutions many of our fellow-citizens live upon a foreign soil, banished from their country, whilst others yet pine in dungeons. The same arbitrary system which suppressed our constitutional liberty sent them into banishment or prison. They were condemned by foreign judges, according to foreign laws, and their condemnation was one of the consequences of the introduction of the Absolute System. Now that the Absolute System has ceased, and that the Constitutional Principle has been recognized in its stead, can the consequences of the abandoned system be suffered to remain under Constitutional forms ?

Until this takes place no confidence can be felt in the

46. We hold all the still-existing consequences of the said judgments incompatible with the re-establishment of the Constitution ; we consider them as *de jure* no longer

existing. Until the actual obstacles which prevent the return of our countrymen, banished for political reasons, are removed, until the imprisoned are set free, and the confiscated lands restored, confidence and faith in the abandonment of the Absolute System and belief in a *bond fide* re-establishment of the Constitution will be wanting. Without such confidence and such belief no fruitful deliberations are possible.

"*bond fide*"  
restoration of  
Constitution.

47. Neither might nor power is the end of government ; might is only the means, the end is the happiness of the peoples. If a twelve years' experience has forced upon the Sovereign, who once considered the absolute system the surest means to secure the happiness of his peoples, the conviction that that system is inadequate to the end in view, if, firm in that conviction, he has determined to tread a Constitutional path, and, without vacillation, to persevere in it, if the Sovereign wishes that the half-dead roots of faith and confidence should shoot forth new fibres, he will give to this our sincere Representation its fullest measure of weight.

CONCLUSION.

48. The King of Hungary becomes only by virtue of the act of coronation legal King of Hungary ; but the coronation is coupled with certain conditions prescribed by law, the previous fulfilment of which is indispensably necessary. The maintenance of our Constitutional Independence and of the territorial and political Integrity of the country inviolate, the Completion of the Diet, the complete restoration of our fundamental Laws, the reinstitution of our Parliamentary Government and our Responsible Ministry, and the setting aside of all the still surviving consequences of the Absolute System, are the preliminary conditions which must be carried into effect, before deliberation and reconciliation are possible.

Summary.

We remain, with the most profound respect, at Pesth, on the fifth day of July one thousand eight hundred and sixty one, Your Imperial Majesty's most dutiful subjects, the Magnates and Representatives of Hungary in Diet assembled :—

GEORGE COUNT APPONYI, M. P.  
*President of the House of  
Magnates.*

KALMAN GHYCY, M. P.  
*President of the House of  
Representatives.*

JULIUS COUNT KAROLYI, M. P.  
*Notary of the House of  
Magnates.*

GEDEON TANÁRKY, M. P.  
*Notary of the House of  
Representatives.*

To His Imperial and Royal Majesty Francis Joseph, our Most Gracious Sovereign, at Vienna.

# THE RESCRIPT

## OF H. I. M. THE EMPEROR OF AUSTRIA TO THE FIRST ADDRESS OF THE DIET OF HUNGARY OF 1861.

**W**E, Francis Joseph, by the Grace of God, Emperor of Austria, Apostolic King of Hungary, Bohemia, Galicia, and Lodomeria, King of Lombardy, Venetia, and Illyria, Archduke of Austria, &c. &c.

To the Barons,<sup>a</sup> Estates Spiritual and Temporal, and Representatives of Our faithful Kingdom of Hungary, and of the thereunto annexed parts,<sup>b</sup> in the Diet, summoned to meet on the 2nd day of April, 1861, Assembled,

Greeting and our Labour.

INTRODUC-  
TION.

FAITHFUL SUBJECTS,

1. **Whereas** the Magnates and Estates in Diet assembled, have not neglected with dutiful readiness to respond to Our request, conveyed to them in Our Rescript of the 30th of June,<sup>c</sup> and have laid before Us their most humble

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|----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Barones Regni;       | <p><sup>a</sup> The "Barones et Comites Regni," who take precedence of all other lay peers, are the fourteen high dignitaries of the State, headed by the Nandor or Prince Palatine, (whose office is now vacant.) Among them are the two High Wardens of the Crown; (see Note b, p. 7,) the High Steward, the High Chamberlain, the High Cup-bearer, &amp;c. &amp;c.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Parties in the Diet; | <p><sup>b</sup> See Note f, p. 4.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Debate;              | <p><sup>c</sup> The House of Representatives was divided into two nearly equal parties. The "Felirat" or "Address Party," led by M. Deak; the "Hatarozat," or "Resolution Party," with M. Tisza and Baron Podmanicky at its head. The latter argued that the Emperor of Austria had forfeited the title of "rex hereditarius" because he had not had himself crowned within the six months after his accession prescribed by Act, (see Note c, p. 1,) and on this ground objected to presenting an Address, but wished to adopt in the form of a resolution the substance of M. Deak's proposition. On this point, after a very long debate, they were beaten by a majority of 3; the numbers being in support of M. Deak's motion, 155; against it, 152. The whole House consisted of 328 members, who had taken their seats.</p> |
| Division;            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Amendments;          | <p>They succeeded, notwithstanding, in carrying several amendments,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## *Rescript of H. I. M. the Emperor of Austria.* 31

Address, in such a form that the acceptance of the same is consistent with the Dignity of the Throne—to be ever guarded by Us against every attack,—and with Our Sovereign Rights concerning which We have already ex-

the most important of which were that they addressed the Emperor by the simple title of “Majesty,” striking out the words “Imperial-Royal,” and that for §§ 42, 43, 44, a new clause was substituted, declaring that until the completion of the Diet it could express no opinion on the Abdication. Thus amended the Address was taken to Vienna, on the 25th of June, by George Count Apponyi and M. Ghiczy, the respective Presidents of the two Houses.

Title altered.

On the 30th of June, His Majesty sent the following answer to Count Apponyi:—

“MY DEAR COUNT,

“I send you a Rescript dated this day, in reference to the Address of the Hungarian Diet, and commission you to hand the same to Koloman Ghiczy, the President of the Lower House, that he may, on his personal responsibility, bring it to the knowledge of that House; and I further charge you to lay it without delay before the Table of Magnates.

FRANCIS JOSEPH, m.p.”

The text of the enclosed Rescript was as follows:—

“Although the discussions in the Lower House of the Diet on Our high sovereign Rights, and the outbursts against Our indefeasible hereditary Title, to Us as hereditary King of Hungary lawfully pertaining, filled Us with astonishment; We believed that such ought rather to be considered as the effervescence of momentary excitement on the part of the speakers, than as a faithful interpretation of the feelings of the Diet We have convened.

Rescript of  
June 30th,  
1861.

“These erroneous views have found decided expression both in the form and text of the most humble Address sent up to Us. We hold it, therefore, Our highest duty,—in order to preserve that most dutiful respect to Our Sovereign Person and to Our Royal hereditary Rights, which the Crown and its dignity with justice claim, but which the Estates and Representatives of the Kingdom have, quitting the path of legal precedent, neglected,—to send back the Address which, in violation of Our Royal rights, is not addressed to the Hereditary King of Hungary.

“But, as we anxiously desire to have an opportunity of expressing Ourselves sincerely, on the important questions contained in the Address of the Estates and Representatives of the Land, We hereby call upon the Estates and Representatives of the Land,—bearing in mind the form of procedure adopted by the Coronation Diet of 1790,—to lay before Us an Address in such a form that its acceptance may be compatible with the dignity of the Crown and of Our hereditary sovereign Rights, which we are bound to protect against all encroachments.”

This Rescript bears the countersignature of Baron Vay, Chancellor, and Zaedenyi, Vice-Chancellor.

The Coronation Diet of 1790, referred to in the above Rescript, gave to King Leopold II, before his coronation, the title “*Sacratissima Regia Majestas*,” omitting only the word “*Apostolica*,” which can only be claimed after the act of coronation. (See Note c, p. 1.) The distinction in the two cases is,—first, that Leopold II, immediately on acceding to the throne vacant by the death of his father, took the necessary steps to obtain his coronation; and, se-

Precedent of  
1790.

pressed to the Assembled Magnates and Representatives Our high satisfaction: **We are rejoiced**, in accordance with Our desire, and in compliance with Our given promise, to have the opportunity of expressing Ourselves sincerely concerning the highly-important questions contained in the said Address, in order that by such distinct and decisive expression a healthy and permanent removal of the impending difficulties may be attained.

Object in summoning Diet.

2. **In summoning** together the present Diet, We wished to inaugurate a course by which the obstacles which prevent the constitutional government of Our Kingdom of Hungary should be removed by legislation; and by which, further, the relations arising from the existing indissoluble union between her and Our other Lands should be, by the legislative power, so regulated, that the decisions adopted with this view should meet the feelings of the nation, and that legislation, at the hands of the Diet, to the exclusion of every other method, should settle the problems which imperatively call for solution.

DIPLOMA OF  
20TH OCT. 1861.

Hungarian Diet henceforth to deliberate on taxation, &c. only in common with the other Representatives of the Empire.

Constitutional Independence of Hungary not thereby endangered.

Hitherto, influence of Diet extended over

3. **Whereas**, in the said Address of the Estates and Representatives of the Land,<sup>d</sup> Our Diploma of the 20th day of October of the past year is alluded to as standing in direct contravention with the independence accorded to Our Kingdom of Hungary by the Pragmatic Sanction: **We indeed acknowledge** that, agreeably to the contents of that Our said Diploma, the Hungarian Diet will, in deviation from former laws, deliberate on all questions concerning taxation, the liability to military service and its regulation, henceforth only in common with the other Constitutional Representatives of the Empire. **We cannot, however, conclude** from this that the guarantees of the constitutional independence of Our Kingdom of Hungary will be endangered; but, on the contrary, we can only expect the consolidation of the same from the future joint deliberation on their common interests with the Representatives of Our other Kingdoms and Lands.<sup>e</sup> We at the same time call the attention of the Estates and Representatives in Diet assembled to the circumstance that, until now, their influence extended over but a small area of the field of taxation, and not, as

condly, that Act III, 1790, limiting the period between accession and coronation to six months (see Note c, p. 1,) had not at that time been passed.

Finally, on the 5th of July, after repeated conferences, the Diet determined to send up the Address in the form proposed by M. Deak, and to cancel all the subsequent amendments.

<sup>d</sup> See First Add. §§ 7-10.

<sup>e</sup> See Second Add. §§ 10-15.

will be the case agreeably to Our said Diploma, over all matters of taxation and finance.<sup>f</sup> Further, We call their attention to the text of the Pragmatic Sanction, adopted in the first and second Acts of 1723, which, according to the expressed content of these Acts, was not called into existence solely for the better security of Our Kingdom of Hungary from external and internal attacks, and for her preservation from the internal convulsions which might easily arise during the interregnum consequent on the vacancy of the Throne, and unfortunately known to the history of the country; but also that it might serve as a more substantial common basis for the mutual harmony and union between Our Kingdom of Hungary and Our other Kingdoms and Provinces.<sup>g</sup>

but small area of field of taxation, whilst it will now embrace all matters of Taxation and Finance.

Object of Pragmatic Sanction not solely better security of Hungary, but promotion of mutual harmony and re-union between it and Our other Kingdoms.

Ancient customs with respect to Coronation Diploma to be observed.

Hungary to be governed in accordance with its ancient Constitution.

No intention of incorporating Lands of Crown of St. Stephen.

NATURE OF UNION with Hered. States.

Assertion "that relation between Hungary and Hered. Prov. only Personal-Union,"<sup>i</sup> contradicted.

Union shown to be "Real;"

4. **Whereas** We have already announced, in Our Letters summoning the present Diet, that it is Our firm will to maintain in its complete integrity the ancient venerable customs with respect to the Coronation Diploma: **Now** We further publicly acknowledge, for the further reassurance of excited feelings, and for the desirable removal of all groundless anxiety, that Our Kingdom of Hungary, both with regard to Persons, and also with regard to the System and Basis of Administration, shall be governed according to a method in accordance with her ancient Constitution, and that, therefore, the incorporation of the Lands belonging to the Crown of St. Stephen is far from the intentions of Our paternal heart.<sup>h</sup>

5. **From this** the autonomic administration of the internal affairs of the Kingdom, as it was established by the 10th Act of 1790, may be concluded; but as thence it in no way follows that the existing indissoluble Union between Our Kingdom of Hungary and Our other Kingdoms and Provinces consists simply in the Unity of the Ruling House, so the assertion, "that the relation between Our Kingdom of Hungary and Our other Provinces is only a simple Personal-Union,"<sup>i</sup> is clearly contradicted by the political position of Hungary, developed by the Laws, and by the events of her history.

6. **The Unity** of the Throne,<sup>j</sup> a common army,<sup>k</sup> and the central administration of the Finances<sup>l</sup> of Our Empire, are the natural consequences of the inseparability and indis-

<sup>f</sup> See Second Add. § 16.

<sup>g</sup> Ibid. § 70.

<sup>h</sup> See Second Add. § 18.

<sup>i</sup> Ibid. § 26 and § 16.

<sup>j</sup> Ibid. § 17.

<sup>k</sup> See First Add. § 18.

<sup>l</sup> Ibid. §§ 23-25.

from Pragmatic  
Sanction;

from 1st Act  
of 1796,  
2nd Act of  
1805,  
2nd Act of  
1807,  
6th Act of  
1808.

Central Go-  
vernment indi-  
cated by 31st,  
98th, 104th,  
and 114th Acts  
of 1723.

Care of Hun-  
garian Legis-  
lature not to  
separate ad-  
ministration of  
the several  
parts of Em-  
pire, evinced  
by 4th Act of  
1741 suspend-  
ing 2nd Act of  
1485 on Pala-  
tine's right of  
guardianship  
of infant king.

solubility of the Empire, existing by virtue of the Pragmatic Sanction. Our Kingdom of Hungary was never specially represented abroad since the accession to the Throne of Our Reigning House,<sup>m</sup> and at the present moment is known as one of the great Powers of Europe, only, jointly with our other Lands, under the name and title of "Empire of Austria." She was bound at all times to take part in providing for the common necessities of the State, and to bear her share of the burdens and sacrifices which fell in the course of the past stormy years of war on the shoulders of Our Peoples, as is proved by the 63rd Act of 1741, by the 2nd Act of 1796, by the 2nd Act of 1805, by the 2nd Act of 1807, the 6th Act of 1808, and many other Statutes.<sup>n</sup>

7. **By a joint Government** of three centuries, by passing together through a variety of circumstances, Hungary has been united to the other States of the Monarchy in a relation far too close to receive the name of a simple Personal-Union. This more intimate Union is expressed in every word of the 1st and 2nd Acts of 1723, and is unmistakably confirmed by subsequent events. The 31st Act of 1723, the 3rd Clause of the 98th Act, the 104th and 114th Acts,<sup>o</sup> all point clearly to a Central Government, to whose province belonged the settlement of matters jointly affecting Hungary and the other Provinces. The Hungarian Legislature, moreover, furnished a brilliant example of its care for the common interests of the Monarchy when, in order that the Government of Hungary should not be separated from that of the rest of the Empire, it passed the 3rd paragraph of the 4th Act of 1741, in opposition to the 2nd Act of 1485 (on the Palatine's right of guardianship of the King during his minority), referred to in the Address of the Diet,<sup>p</sup> and not only proclaimed in the said paragraph referred to, the Emperor Francis, the Most Gracious Consort of the Hungarian King, Maria Theresa, of illustrious memory, co-regent, but provided for the contingency of the minority of the successor to the Throne, by transferring to him, the said Emperor Francis I, the lawful guardianship of the infant King, with the express declaration that, by virtue of his paternal and guardian power, he should govern Hungary in common with the other Provinces of the Empire.<sup>q</sup>

<sup>m</sup> See Second Add. §§ 19-21.

<sup>o</sup> Ibid. §§ 34-38.

<sup>q</sup> See Second Add. §§ 39-43.

<sup>n</sup> Ibid. §§ 30-33.

<sup>p</sup> See First Add. § 22.

8. **The common direction** and administration of financial and military matters are established by a whole series of undeniable facts which are not consistent with the conception of a Personal-Union. If no nearer Union than a personal one existed, the 4th paragraph of the 11th Act of 1741,<sup>r</sup> which desires and prays the nomination of Hungarian members in the Ministry of the Empire, would have no meaning. The Laws of 1848 made the attempt to create a Personal-Union, in no slight contradiction with the Declaration contained in the Preamble to those Acts, according to which the Unity of the Crown and the obligations of Hungary to the whole Empire are to remain "without prejudice."<sup>s</sup> The attempt to carry out these laws discovered, in such a manner as to admit of no doubt, within the first six months of the year, all those dangers which threatened Hungary, in common with the whole Monarchy, through the effort to confine, in the narrow circle of a Personal-Union, the preservation and maintenance of those common interests of the Empire, without regard to the political law and past history of Hungary.<sup>t</sup>

11th Act of 1741 inconsistent with "Personal-Union."

Laws of 1848 attempted to create "Personal-Union."

9. **This separation** brought about all those dangerous convulsions which rendered necessary the employment of an administration at variance with the constitutional institutions of Hungary.

Produced convulsions which ensued.

10. **But Whereas,** in Our Diploma of the 20th of October,<sup>v</sup> 1860, We have, of Our Royal absolute Power,<sup>v</sup> guaranteed the restoration of the Constitution of Hungary,<sup>v</sup> subject to the conditions, and within the limits necessary in the interest of Our Royal Throne, and of Our Empire, and inevitable in consequence of the institution of constitutional forms of Government in Our other Lands: **We have** now, in completion of Our said assurance, not only re-established the ancient system of Comitats,<sup>x</sup> but also the legal Hungarian Dicasteria; and, moreover, summoned together the Diet, in order that we might satisfy the interests and wishes of the country, and bring the political position of Our Kingdom of Hungary into unison with the strong and indissoluble Union binding it with all Our other Lands, and with the position of Our Empire as a great power,<sup>y</sup> by obtaining a solution of the highly-important matters contained in Our Diploma of the 20th of October, and in Our Letters

DIPLOMA OF 20TH OCT. and LAWS OF 1848.

Ancient system of Comitats, and Dicasteria re-established. Diet convened to bring political position of Hungary into unison with the indissoluble Union binding it to the other Provinces.

<sup>r</sup> See Second Add. § 22.

<sup>s</sup> Ibid. §§ 48-54.

<sup>t</sup> Ibid. § 56.

<sup>x</sup> See Note n, p. 42.

<sup>v</sup> Ibid. §§ 46, 47.

<sup>w</sup> Ibid. §§ 55, 57.

<sup>y</sup> Ibid. §§ 58, 59.

<sup>z</sup> See Second Add. §§ 67-75.



Patent in connection with it, through the Legislature, either on the basis of Royal Propositions, or of the Proposals of the Diet to be submitted to Us.

LAWs OF 1848:  
in desiring  
their enforce-  
ment, Diet  
is seeking  
solution on im-  
possible basis.

11. ~~Whereas~~ the Estates and Representatives in Diet assembled, for the attainment of this end, urge the immediate putting in force of the Laws of 1847-48,<sup>a</sup> and considering the fulfilment of this their wish as a necessary condition precedent, desire to place the constitutional position of the country upon this footing alone, they are seeking a solution of the great duty devolving on them on a basis which would necessarily involve a conflict with the conditions essential to the existence of the Empire, upon which no settlement of the common interests of the Monarchy in a manner conformable to the rightful claims of all parties, is possible :

Diploma of  
20th Oct. con-  
firms certain  
principles of  
Laws of 1848.

12. ~~We have~~, in Our Diploma of the 20th of October, 1860, solemnly recognized as just and confirmed the principles of the Laws of 1848, by which the privileged position of single classes is abolished—the qualification to possess property and hold office extended to all—the obligations of the Urbarium, Tithe, and those of the subject class cancelled—the duty of aiding in supporting the burdens of the State—the liability to serve in the Army declared common to all—and, lastly, the right of suffrage extended to classes who before had not enjoyed it.<sup>a</sup>

Emperor does  
not hold him-  
self personally  
pledged to said  
Laws : neither  
has recognized  
nor will recog-  
nize other parts  
of those Acts.

13. ~~With respect~~ to the other part<sup>b</sup> of the laws of 1848, the Estates and Representatives of the Land are aware that many of their chief parts are not only incompatible with the clear contents of the Pragmatic Sanction, but from the point of view of justice cannot be suffered to subsist. Moreover, the Estates and Representatives of the Land know full well that these laws not only encroach on the rights of the country and of Our entire Empire, but on the national interests of a significant part of the peoples belonging to the Crown of St. Stephen. Bitter experience has forced upon Us the conviction that many of the articles of these Laws do not contain the guarantee of durability and practicability because they do not tally with the relations of the jurisdictions and nationalities which have grown up in the course of centuries, and that consequently the political and national elements in the Kingdom of Hungary, and not less the relation of Our said Kingdom to the whole State require another basis for the purposed mutual

<sup>a</sup> See Second Add. §§ 60-66.

<sup>a</sup> Ibid. §§ 82, 83.

<sup>b</sup> Ibid. §§ 80, 81, 84, 85-87.

arrangement. **We, therefore, most graciously notify** to the Estates and Representatives in Diet assembled that, whereas We do not hold Ourselves personally pledged<sup>c</sup> to the said laws, We have never recognized, and, further, in future never will recognize those Acts of 1848, which are in opposition to the required security of the indivisible interests of Our united State, and specially to Our Resolutions of the 20th of October, 1860, and of the 25th of February, 1861.

14. **Whereas** the right of proposal and of the initiative, with a view to the said modifications does not belong solely to Us in the way of Royal Propositions, but is, on the other hand, placed also in the hands of the Nation: **It will not** only be the privilege but the duty of the Representatives of the Nation, in its propositions for this purpose, to seek a basis upon which, with due regard to the undisturbed historical footing of right, the law may be satisfied respecting its Constitution and its national interests. **We declare in pursuance** of this, that, before the deliberations in the Diet on the Royal Inaugural Diploma to be issued by Us can take place, the revision of the laws of 1848, in the spirit of the Pragmatic Sanction, and in the manner required by the interests of the common State, as has been already precisely laid down in the Diploma of the 20th of October, must be carried out.

Before deliberation on Inaugural Diploma can take place, Diet must revise Laws of 1848, in sense laid down by Diploma of 20th Oct.

15. **Whereas We confidently expect** that the Estates and Representatives in Diet assembled will follow the example of their predecessors, who, animated with patriotic feeling, never failed to appreciate the unavoidable calls of circumstances changing from time to time; and, as the 4th Act of 1687, the 8th Act of 1715, as well as the 1st and 2nd Acts of 1723 evidence, were always prepared to bring the political position of Hungary into harmony with the common interests of the Empire:<sup>d</sup> **whilst reserving** to Ourselves the right of further declarations in the way of Royal Propositions, **We command** the Estates and Representatives in Diet assembled, to regard it as their duty to prepare and submit to Us for our Royal Sanction, with the least possible delay, the proposals of law necessary for the repeal<sup>b</sup> of these Acts in the sense of Our expressed views.

Estates therefore commanded to submit without delay proposals for repeal of those Acts;

16. **Whereas** in accordance with the first and second clauses of Our Diploma of the 20th of October, 1860, and further, in the sense of our Fundamental Law of the 26th of February, 1861, the deliberation on all those subjects of legis-

to decide manner of election of Representatives to Council of Empire; (hence-

<sup>c</sup> See Second Add. §§ 88, 89.

<sup>d</sup> Ibid. §§ 77-79.

forth to be sole  
deliberative  
body on all  
matters affect-  
ing whole  
Empire;)

lation which concern jointly the rights, duties, and interests of all Our Lands and Provinces belongs to the Council representing our entire Empire; and ~~Whereas~~ further in our Rescript of the 26th of February, 1861, addressed to the Hungarian Chancellor, We, to avoid all precipitancy or compulsion, have left to the Diet to make arrangements for, and constitutionally to decide the manner in which the Election of the Representatives of Hungary is to take place: ~~We~~ in pursuance thereof now call upon the Estates and Representatives in Diet assembled to deliberate on this matter according to order.\*

17. ~~And Whereas~~ the definitive legislative arrangement of this question will probably require a longer time and more detailed discussions: ~~We~~ have already, on convoking the Reichsrath, after the 26th of February, in Our Letters addressed to the Hungarian Chancellor, ordered the adoption of provisional measures, with reference to the Diet now sitting, for this special occasion.

18. ~~And Whereas~~ the High Estates and Representatives in Diet assembled have, in the most dutiful Address they humbly laid before us, declared that they are willing, from time to time, to enter into deliberations with the Constitutional Representatives of Our other Kingdoms and Provinces: ~~We~~ on this ground admonish and again call upon the High Estates and Representatives of the Land to exercise the influence due to the Country in the Assembly of the now-sitting Council of the Empire upon those matters which, according to Our Diploma of the 20th of October, 1860, are for the future to be discussed and decided with the judiciously regulated participation of all Our Peoples. ~~We~~ therefore urge upon the High Estates and Representatives in Diet assembled, to hasten all the more in obeying this Our call, because the said common matters must be discussed and settled without delay, and that in the course of the month of September.

with least pos-  
sible delay.

"COMPLETION  
OF DIET" will  
settle itself;

19. ~~When the relation~~ of Our Kingdom of Hungary to Our other Lands and Provinces shall have been settled in accordance with Our Royal views; when the Laws of 1848 shall have been modified, as necessity requires, and such parts repealed as are either absolutely, or at least in their present form, not realisable, then the question of the "Completion" of the Diet will settle itself,\* and in the following manner. As far as concerns the Union of Our Principality of Transylvania, We must observe that its

\* See Second Add. § 90.

† See First Add. § 28.

‡ See Second Add. §§ 91, 92.

incorporation with Hungary took place without the free consent of the Ruman and Saxon nations ; that it never actually and fully came into force ; that after the publication of the one-sided resolutions it fell asunder, and must further be considered impracticable as long as the non-Hungarian inhabitants of Transylvania see in the Union any danger to their interests, and until the requirements and interests of the Empire have been arranged on a firm basis.<sup>b</sup> **Actuated by these motives, We have left** the Union of Transylvania and Hungary untouched in Our determinations of the 20th of October, 1860, and have only ordered preparations for the Convocation of the Diet of Transylvania.

Transylvania : Union decided without consent of Rumanes and Saxons ; never came into force ; at present impracticable ; left untouched by the Diploma of 20th Oct.

20. **The case** of Our Kingdoms of Croatia<sup>1</sup> and Slavonia is otherwise : in reference to these Our Kingdoms, we have reserved for Our future decision, in Our Letter addressed to the Ban on the 20th of October, 1860, the relation in which these Kingdoms are to stand to Our Kingdom of Hungary.

Croatia and Slavonia ; case reserved for future decision.

21. **The historical relation** of these Kingdoms to the Holy Crown of Hungary, both with regard to their right of Representation in the Hungarian Diet, and their internal Administration and Legislation suffered by the Laws of 1847-8 changes so essential, productive of such dissatisfaction, that these Kingdoms were ready rather to dissolve their federative Union with Hungary, resting on express laws, than to obey the orders of the Hungarian Ministry.

Laws of 1847-48 produced dissatisfaction.

22. **In accordance with** Our most gracious Letters hereinbefore referred to, **We again declare** that the solution of these questions can only be attained by joint deliberation with the Croatian-Slavonian Diet. It will, therefore, be the duty of the Estates and Representatives in Diet assembled fundamentally to investigate the question, in what manner it may be possible, whilst preserving the internal administration of Our Kingdoms of Croatia and Slavonia, to devise conditions upon which they will be willing to re-establish their political Union with Hungary, whilst the common relations of both to the Empire remain unprejudiced.

Solution depends on Croatian-Slavonian Diet.

23. **By such** an arrangement of the internal constitutional relations, none of those Our Ordinances will be affected which, on the 26th of February, 1861, we issued to Our provisional Croatian-Slavonian Dicasterium, in order that Croatia and Slavonia might in this present session take part in the deliberations of the Council of the Empire now assembled with respect to the circumstances thenceforth to

These internal arrangements not to affect ordinances of 26th February, providing for Representation of Croatia, &c. in Council of Empire.

<sup>b</sup> See Second Add. §§ 93-104.

<sup>1</sup> Ibid. §§ 105, 106.

be discussed and decided with the judiciously regulated participation of all Our Peoples, in accordance with the 2nd clause of the Diploma of the 20th of October, 1860. To this We have already summoned the Croatian-Slavonian Diet to elect, during the present session, Representatives for the Council of the Empire.

Diet to prepare Act to satisfy claims of non-Magyar inhabitants of Hungary.

24. **We consider** it further necessary to call upon the assembled Estates and Representatives to take into consideration a *projet-de-loi*, either originating in their own right of initiative or laid before them in the shape of Royal Propositions, which shall embody distinctly and decidedly the national rights of the non-Magyar inhabitants<sup>1</sup> of Our Kingdom of Hungary, and further extend them, both as regards language and national development, and the relations of their public administration.

Servian Waywodina.

25. **With regard** to the Servians<sup>2</sup> who inhabit the country, **We reserve to Ourselves** to send to the Estates and Representatives for their further consideration, Our Royal Propositions respecting the ancient privileges of this nation, its rights, and the guarantees of its national interests, on the basis of the wishes which they made known in their National Congress recently held on the occasion of the re-annexation of Our Servian Waywodina to Our Kingdom of Hungary.

Until definite settlement of these questions, deliberations on Inaugural Diploma impossible.

26. **Finally, We hope** that the assembled Estates and Representatives, penetrated with a sense of the importance of their present duties, will devote all their efforts to the solution of the same, and bearing in mind the unavoidable requirements of the actual position of the Empire, will acknowledge that We, as Hereditary King of Hungary, cannot enter into the deliberations respecting the Coronation-Diploma until the above-enumerated circumstances shall have been after mutual agreement definitely settled.

ACTS OF ABDICATION: Objections repudiated.

27. **We solemnly repudiate** the objections which have been raised respecting the abdication<sup>3</sup> of His Majesty the Emperor and King Ferdinand, on the ground of an alleged error of form in the documents thereto pertaining. We hereby notify to the High Estates and Representatives in Diet assembled, that Our gracious Uncle, in subscribing on the 2nd of December, 1848, the Act of Abdication of the Crown "of the Austrian Empire and of all the Kingdoms united under the same,"—which title most certainly includes Hungary—renounced the Throne of all Our Lands

<sup>1</sup> See Second Add. §§ 111-118.

<sup>2</sup> Ibid. § 119.

<sup>3</sup> Ibid. § 120; First Add. §§ 42-44.

howsoever to be denominated, and that His Imperial Highness Francis Charles waived the right of succession which devolved on him. We, in consequence of this, ascended the Throne which devolved on Us by right of birth. Having solemnly published the abdication of Our most gracious Uncle the Emperor and King Ferdinand, the renunciation of Our gracious Father to his right of succession, and Our own accession to all our peoples, there can be no necessity for again notifying the same through an Act of Parliament.

28. **Finally, We embrace** this occasion to declare that it is Our most gracious purpose, on the occasion of Our solemn Coronation, to take into Our most gracious consideration the prayer of the Address<sup>m</sup> submitted to Us, to cause the suspension of all the consequences of the sentences passed by the exceptional tribunals.

POLITICAL  
CONDEMNATION :  
Prayer of Address will  
be considered  
at Coronation.

29. **This is what We wish** to notify to the Diet in reply to the most humble Address they have laid before Us. We have made it an object of Our most earnest attention that Our Hungary should be re-assured of the independence of its internal administration, and should receive the adequate guarantees of its future prosperity ; and We expect of the High Estates and Representatives in Diet assembled that they will take into due consideration the indissoluble relations on the basis of the Pragmatic Sanction of Our Kingdom of Hungary to Our other States, and will not refuse their constitutional co-operation to the legal arrangements recommended by Us for the regulation of all the circumstances awaiting a solution agreeable to all the interests concerned.

CONCLUSION.

30. **And Whereas** we have taken into consideration that no sudden changes, in the administration of justice or of public affairs, can take place without producing serious convulsions, without menacing with danger and even ruin public prosperity and the holiest interests : **We have already decreed and commanded** in Our Rescript of the 20th of October, 1860, that the laws and ordinances which have hitherto existed and which are of the highest importance for the country itself, and of the most essential interest to Our other States—specially those which decree the contribution of the means necessary to provide for the necessities of the whole Empire—shall remain in full force, and shall be executed with all rigour, until changed by constitutional action. **We again remind** the assembled Estates and Representatives of this Our Ordinance, and earnestly warn them to consider it their bounden duty punctually to comply with Our Decrees in this respect.

PROVISIONAL  
LAWS and Ordinances, specially with reference to levying taxes, to remain in force until constitutionally changed.

<sup>m</sup> See First Add. § 45 ; Second Add. § 121.

## 42 *Rescript of H. I. M. the Emperor of Austria.*

**And We further assure them of Our Imperial-Royal Grace and Favour.**

**Given** at the Capital of Our Empire, Vienna, in Austria, on the 21st day of July, in the year 1861.<sup>a</sup>

**Francis Joseph, m. p.**

(L. S.)

**ANTON COUNT FORGACH, m. p.**

**KALMAN BEKE, m. p.**

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<sup>a</sup> Each of the 52 "Varmegye" (counties) into which Hungary is divided has its own "Comitat," or County-parliament, upon which the entire government of the county devolves. In the County-parliament are vested not only legislative, but executive powers. Every civil officer having jurisdiction within the county, except the Lord-Lieutenant, is elected by the "Comitat." Upon it devolves the administration of justice, and the execution of the general statutes of the realm. It collects and pays in to the general "Cassa Militaris" its quota of the "Royal Taxes," the amount of which is determined by the General Diet. It provides for the entire expense of internal administration—judges, magistrates, civil functionaries of all kinds, general education, public buildings, roads, and other works,—out of its own "Cassa Domestica," which is filled by taxes or rates the nature and amount of which itself determines. The Acts of the Diet and Decrees of the King are officially communicated to the "Comitat," and executed by its officers. If any of the latter are found to be contrary to law, such are laid aside, according to long-established precedent, with the words "*cum honore seponuntur.*" The resolutions and ordinances of each "Comitat" are usually communicated to all the rest.

The "Comitat" is presided over by the "Fő-Ispan," or Lord-Lieutenant of the county, who is appointed by the King, except in the cases in which the office has been made hereditary in certain families. The other principal officers, all of which are elected, are the two "Al-Ispans" (Deputy Lord-Lieutenants), the Szolga-birok (County-magistrates), the Jurassores (Jurati Assessores), treasurers, notaries, &c. These are all appointed for a term of three years. They have a nominal stipend, supposed to defray the actual disbursements of the office. The ordinary meetings, "Congregationes," are held every three months, or oftener if occasion require; the "Restauraciones," or meetings for the election of officers, every three years.

Before 1847, Members of the Lower Chamber of the Diet were elected by the "Comitats." They were delegates in the strictest sense of the word, bound to vote in accordance with the instructions of the "Comitat," and recallable at pleasure. The laws of 1848 extended the franchise to the people at large, and removed the restrictions on the free action of the representatives.

The Constitution of the County-parliament was also materially changed by the laws of 1848. Previously the "Comitat" was an assembly of the landowners of the county, under the presidency of the Lord-Lieutenant. Now it is a representative assembly, numbering 200 to 300 members, to which each of the four classes of large, small, and peasant proprietors and burgesses of towns contributes its fair share, the electoral franchise being the same as that for members of the Diet. (See page 4, Note e.) See page 35, Note x.

# THE SECOND ADDRESS OF THE DIET OF HUNGARY,

TO H. I. M. THE EMPEROR FRANCIS JOSEPH  
DURING THE SESSION OF 1861.

IMPERIAL-ROYAL MAJESTY,

**W**HEN the domination of absolutism which during twelve years had weighed upon us was withdrawn, we believed that our sufferings had reached their term, and that we might confidently hope that time would soothe the after-pains, that the strength of the nation, if not exhausted by new attacks, would make good the injuries which the purposeless measures of that oppressive system had inflicted on us, and on the whole Empire.

INTRODUC-  
TION.

2. Though we could not shake off all feelings of anxiety when we saw that a great proportion of the Ordinances issued in the administrative department were not constitutional, we trusted that when the Diet was called together, and had laid at your feet the expression of the rightful wishes of the nation, your Majesty would progress in the constitutional path—would deem worthy of consideration the demands of the nation founded on justice and in law, and would order the suppression of all the unlawful relics of the Absolute System, so that at last the Sovereign and the Nation might stand united on a legal basis of constitutional right.

3. The Diet was summoned to meet. We considered it to be our first duty to lay before your Majesty, with respectful sincerity, a statement of those measures which are absolutely indispensable for the complete re-establishment of the Constitution, and the consequent re-assurance of the nation. We addressed ourselves, in the name of the nation, to the Prince who, by virtue of his legal right of inheritance to the Throne, wishes to become the legal crowned King of Hungary. Finding that even in the preliminary steps

First Address  
enumerated  
measures in-  
dispensable to  
restoration of  
Constitution :



many provisions of the laws were disregarded, we thought it our duty openly to declare what are the conditions inevitably attached to the right of succession and the coronation, by the fundamental State-contract which confers the Crown of Hungary on the ruling dynasty.

Set forth conditions attached to Right of Succession; by self-same contract on which rests Majesty's title to Crown of Hungary :

4. It is not we who have established these conditions. This is not the first time that their fulfilment has been required. On the same condition the predecessors of your Majesty became crowned Kings of Hungary. The title of your Majesty to the Crown of Hungary rests on the self-same contract, which establishes also those conditions.

Demanded only strict observance of Pragmatic Sanction.

5. In our Address we asked not for concessions. We proposed no new laws for the further security of our rights. We demanded only that the Pragmatic Sanction, with all its conditions and the mutual obligations it imposed, should be strictly observed,—that our ancestral Constitution and the Laws enacted by our Diets, which have been suspended by force, should be re-established, and that the right of interpreting, altering and repealing laws, should in no degree be withdrawn from the Diet. In a word, we wished that legality and constitutional procedure should not partially, but entirely, take the place of absolute force.

Rescript distinctly refuses our rightful demands.

6. The Rescript which your Majesty was graciously pleased to send to us on the 21st of July of the present year positively refused to satisfy our rightful wishes. From the whole contents and spirit of the Rescript we have come to the painful conviction that, in fact, your Majesty does not wish to reign over Hungary in the full spirit of the Pragmatic Sanction.

That Hungary be governed according to its own laws—a fundamental condition of Act of Settlement :

7. No one can question that one of the fundamental conditions subject to which the right of succession is extended by the Pragmatic Sanction to the female line of the House of Hapsburgh is, that Hungary shall be governed according to her own laws. The same Act which conveys the right of succession to the female line of the ruling House, after detailing the order of succession declares, in paragraph 9, that “the third Act of the year 1715 shall “equally bind the female line admitted to the succession by “the said paragraph.”<sup>a</sup> Now, the very first clause of this said third Act of 1715 declares that “His Royal Majesty “will not rule and govern the Estates in any other way than “according to the own laws of Hungary heretofore made “or hereafter to be made through its Diet.”<sup>b</sup> The same

<sup>a</sup> See Note f, p. 13.

<sup>b</sup> See Note g, p. 14.

Act in its second paragraph adds "that Hungary shall "not be governed according to the manner of the other "Provinces."

8. The King of Hungary is therefore bound to observe the laws of the land, not only by the Royal Diploma issued at the Coronation and by the Royal Oath then taken, but by the Pragmatic Sanction. This obligation also extends to the period before the Coronation. The third Act of 1790<sup>d</sup> enacts that the Prince upon whom, in accordance with the established order of inheritance, devolves the succession, can, until his Coronation, which may not be deferred longer than six months, govern the land, but not otherwise than according to the Constitution.

Equally binding before Coronation :

Which cannot be deferred longer than six months after accession.

9. Therefore, the whole contents of the most gracious Royal Rescript were quite unexpected by us. Your Majesty has, in violation of the Pragmatic Sanction, suspended our Constitution and our Laws by the force of absolute power, and will not, even now, cause this arbitrary suspension to cease.\* Your Majesty promises to restore fragments only of our Constitution, whilst withdrawing from us its most essential rights. By arbitrary authority your Majesty suppresses our fundamental laws and sets in their stead an Imperial Diploma and Patent, which your Majesty wishes us to regard as fundamental laws. Your Majesty requires of us that we should send representatives to the Council of the Empire,<sup>f</sup> which was created by arbitrary decree, without our concurrence ; that with regard to our most important interests we should transfer to the Council

Therefore tenor of Rescript unexpected.

The Position of Affairs summed up.

\* Act III, 1715, § 2:—"Quâ Regia clementissima declaratione de omni a Regno avulsione; ac ad morem aliarum Provinciarum supposito Gubernio memoratos Status, et Ordines Regni sufficienter præcautos reddit."

Act III, 1715.

<sup>d</sup> Act III, 1790:—"Ad penitus e medio tollendum omne dubium, quod ex tenore quorundam verborum acceptati, a Sacratissima Regia Majestate, et extradati diplomatis inauguralis de coronatione per hæreditarios Hungariæ Reges suscipienda, contra fundamentales regni leges obmotum est, futurisve temporibus obmoveri posset, clementer annuit Cesareo-Regia Apostolica Majestas, ut inauguratio coronatioque Regia, cum singula regiminis mutatione, intra sex mensium, a die obitus defuncti Regis computandum, spatium, ritu legali inomisse suscipiatur; salvis tamen, intermedio tempore omnibus juribus hæreditariis Regis, quæ ad publicam, constitutionique conformem Regni, administrationem pertinent; salvis non minus eidem Regi debitis homigialis fidei obligationibus; privilegiorum nihilominus collatione imposterum quoque penes solam legitime coronatam Regiam Majestatem permansura."

Act III, 1790.

\* See Rescript, § 30; First Address, §§ 37-41.

<sup>f</sup> See Rescript, § 3; First Address, §§ 4-10.

of the Empire the right of legislation which, up to the present moment, our nation has always exercised in its own Diet; that we should surrender the rights of the country, by virtue of which it has always determined its own taxation, and the levies of troops, and that we should submit ourselves in these matters to the said Council.<sup>a</sup> Your Majesty refuses to recognize a part, and an important part, of the laws passed by the Diet, and sanctioned by the Sovereign, and at the same time commands us to modify and repeal the same; yet beforehand your Majesty declares that in future, too, you will not recognize these laws.<sup>b</sup> By this your Majesty has completely set aside the fundamental principle of the Hungarian Constitution, and indeed of every constitutional government, that sanctioned laws can only be repealed by the collective legislative factors, and has, in fact, therefore annihilated the whole legislative power of the country. Your Majesty declines to complete the Diet, and yet requires of us that, in the absence, nay, in the direct exclusion of those who have not been invited to attend, and yet whom the rights of the land concern as much as they do ourselves—that in this incomplete state we should surrender an important portion of the laws of the land, should alter our Constitution, should acknowledge as fundamental statutes ordinances of a bureau, and should pass laws on the most important political questions.<sup>c</sup> Further, your Majesty announces that the completion of the Diet will only take place when we shall have beforehand effected all this. These are throughout steps so unconstitutional as to menace the very existence of the Pragmatic Sanction, for they set aside all that is contained in it as a fundamental contract, in the shape of conditions for the security of the nation, and retain scarcely anything but the right of succession guaranteed to the Royal House.

DIPLOMA OF  
20TH OCT.  
Rescript ad-  
mits questions  
of Taxation  
and Military  
Service will be  
withdrawn  
from Diet, but  
adds guaran-  
tees of consti-  
tutional inde-  
pendence will  
be thereby fur-  
ther secured.

10. Whereas the most gracious Royal Rescript admits that, in conformity with the contents of the Diploma of the 20th of October, the Hungarian Diet will no longer discuss and decide the questions of taxation and the manner and regulation of military service; it adds, by way of re-assurance, that “the guarantees of the constitutional independence of the country will not be endangered, but, on the contrary, further secured, if Hungary discusses these questions in common with the representatives of the Hereditary States.”<sup>d</sup>

<sup>a</sup> See Rescript, § 18.

<sup>b</sup> Ibid. § 19.

<sup>c</sup> Ibid. §§ 13-15.

<sup>d</sup> Ibid. § 3.

11. But we find in these words no ground whatever for the least re-assurance. The Constitutional Independence of the country is seriously infringed by the very fact that your Majesty, without the previous consent of the Diet, of your own might takes from the land this cardinal right; that your Majesty, of your own authority, ordains laws, and, without once asking the Diet whether it accepts these essential alterations of its ancestral Constitution, treats the same as an accomplished fact, and commands us straightway to send representatives to the Council of the Empire, which will take the place of our Diet in exercising those rights with regard to Hungary. Thus it appears that your Majesty considers the Diet, not as a body which exercises in the name of the nation, in conjunction with your Majesty, the legislative power which is divided between the Sovereign and the nation, and without the consent of which a law can neither be made nor altered; but that your Majesty regards the Diet as a body which, in the very field of legislation, is bound to accept the commands emanating from the sole will of the Sovereign as law; nay, is bound further to inscribe them in the statute book, even though they are in opposition to the Constitution and the sanctioned statutes of the realm. In what would then the Constitutional Independence of Hungary—whose legality the text of the Royal Rescript acknowledges—consist? And where would be the “guarantee of this independence” if, at a future period, a successor of your Majesty, appealing to this precedent, should act in the same manner with our other laws and rights, and should, by a command of his own power and authority, suppress or modify these without the previous consent of the nation, and then instruct the Diet to complete these mandates in the field of legislation?

Constitutional Independence infringed in that Majesty deprives it of these cardinal rights, and ordains laws without its consent:

Considering it as body bound to accept and record as Statutes mandates of king.

What would prevent future Kings with this precedent similarly suppressing other laws?

12. But, apart from this important consideration of political right, and supposing that this question were laid before us, in the regular course, as by law prescribed, we could not accept this alteration of the Constitution, for it would be injurious, nay, dangerous to the rights and interests of the nation.

The change in itself dangerous to interests of country.

13. We will not now appeal to our older laws, which show, beyond dispute, that so long as taxes have been paid—since the first standing army was established—the granting of taxes and the raising of recruits have been the undoubted rights of the nation, which she has continuously exercised through her Diet. We refrain from recapitulating the detailed exposition in the text of the 8th Act of 1715,

SELF-TAXATION ever been right of nation; continuously exercised. 4th Act, 1827.

and the 19th Act of 1790, and will content ourselves with quoting the 4th Act of 1827,<sup>k</sup> which declares that "as well "the decreeing of all kinds of taxes, and other subsidies, "in gold or in kind, as also the granting of recruits, belong "to the province of the Diet to discuss and settle, and can- "not, under any pretext, even in the most extraordinary "cases, be withdrawn from it; that the taxes granted by the "Diet cannot be increased without its consent, nor any "new tax imposed, nor recruits raised."

In exigencies  
nation never  
sparing of its  
blood or trea-  
sure.

14. In accordance with these laws the nation has herself disposed of the lives and money of her citizens. In ordinary times she has fulfilled her public duties; and when threatening dangers required greater efforts, or called for sacrifices, she has never been sparing of her blood or treasure. The nation did this from a feeling of duty, and in doing homage to its laws it bore the burden more easily because they were self-imposed in accordance with the requirements of the emergency.

Council of  
Empire.

15. But if the constitutional right which the country has hitherto enjoyed and exercised were taken away—if it could only determine its taxation and its military levies in common with others, the disposition over the property and blood of the nation would pass into the hands of a body the considerable majority of which would be composed of the representatives of other provinces. And seeing that the greater part of the provinces belong to the German Confederation, of which we are not members, it might easily happen that they would impose burdens upon us in support of such interests and in compliance with such obligations as are not *our* interests or *our* obligations.

Majority of  
members re-  
presents pro-  
vinces of Ger-  
man Confede-  
ration;  
whose interests  
are foreign to  
us.

"Influence of  
Hungary" not  
"limited to  
small share of  
taxation;"  
Direct "Royal  
Taxes" voted  
by Diet.

16. The Royal Rescript affirms that "the influence of "Hungary has extended hitherto over but a small area of "the field of taxation."<sup>1</sup> This we cannot admit. That part of the direct taxes, called "Royal taxes," was always fixed and voted by the Diet; that part destined to cover the expenses of the internal administra-

Act IV, 1827.

<sup>k</sup> Act IV, 1827:—"Sua Majestas Sacratissima Status et Ordines securos reddit, quod materia Contributionis et Subsidiarum cujuscunque nominis, seu in Ære, seu in Naturalibus, aut Tyronibus, et Diætali Tractatu, quorsum hanc, juxta clavos Articulorum VIII, 1715, et XIX, 1792, tenores spectare ultro agnoscit, salva duntaxat quoad contributionem Articuli VIII, 1715, in Articulo XXII, 1741, uberius declarata dispositione, in nullis extraordinariis etiam casibus avocanda sit—neque cum eadem Contributione, relate ad speciem et quantitatem, Comititaliter determinatam, quæpiam extra Diætam mutatio suscipienda, verum hæc, prout ab unâ Diætâ ad aliam, in Comitii Regni determinata fuerit ita exigendo veniat."

<sup>1</sup> See Rescr. § 3.

tion of the several counties, districts, and towns, was always fixed and administered by the autonomic jurisdictions" themselves, subject to the superintendence of the Hungarian Dicasteria. Indirect taxes hardly existed in Hungary but that derived from the sale of salt, the monopoly of which legally belonged to the "Regalia," and the Hungarian customs' duties. To determine the price of salt belonged to the Diet, and the King could raise it, without the sanction of the Diet, only in cases of the greatest emergency, according to the provisions of the 20th Act of 1790.<sup>m</sup> The Hungarian customs' duties were always Royal revenues, and were placed under the superintendence of the Hungarian boards of government, and the Hungarian Legislature at various times passed decrees on the method of their collection, and on the purposes to which they were to be appropriated. Commercial customs and duties, moreover, which in constitutional countries are the objects of international treaties, should in a well-organized land be dealt with rather for the encouragement of manufactures and commerce than as a source of revenue to the State. The postal service, which was also placed under the direction of the Hungarian boards, we do not touch on, partly on account of the trifling revenue it contributed to the State, but chiefly because it can scarcely be regarded as a medium of taxation. The indirect taxes introduced by the Absolute System—which, though furnishing the State with a large share of its revenues, are in many ways injurious, partly because excessive, but chiefly because they weaken the basis of the strength of the State through the expenses, injustice, and grievances connected with the present manipulation in their collection—were unknown to Hungary, and are at the present moment totally illegal. It is, therefore, not a fact that the constitutional "influence of the "Hungarian nation extended hitherto over but a small "area of the field of general taxation."

Indirect Taxes  
hardly existed.  
Salt monopoly.

Customs' Du-  
ties.

Postal Service.

17. The Royal Rescript further maintains that "the "Pragmatic Sanction was not called into existence solely "for the better security of Hungary from external and "internal attack, and for its preservation from the internal

NATURE OF  
UNION with  
Hered. States.

<sup>1</sup> See Note n, p. 42.

<sup>m</sup> Act XX, 1790:—"Sua Majestas Sacratissima, ut gratiam et clementiam, qua gentem Hungarum complectitur, uberius testatam reddat, clementer annuere dignata est, citra etiam inferendum per id altissimo Juri suo regali præjudicium, ut de elevatione pretii Salis cum fidelibus Statibus et OO. diætaliter congregandis tractetur, nec alias nisi extreme urgentes circumstantiæ aliud exigent, Pretium Salis extra Comitia regni augeatur."

Act XX, 1790.

Object of  
Pragmatic  
Sanction; as-  
sertion of Re-  
script refuted.

"convulsions which might easily arise through a disputed succession, but also to furnish a more substantial basis for mutual harmony and union," and in corroboration of this it appeals to the literal sense of the 1st and 2nd Acts of 1723.<sup>a</sup> In our first Address we developed our views of the text and meaning of the 1st and 2nd Articles of the Pragmatic Sanction. We think that these our views are well-grounded, and we see nothing in the Royal Rescript to shake them in the slightest degree. There is not in these laws one line from which, whether according to a literal or real meaning, any other union, any closer union can be inferred than that which we in our said Address have established. The indivisibility and inseparability solely refer to the undivided possession of all the lands by the same Sovereign; and it is the more impossible to deduce the identity or unity of the form of Government or of the Administrative system, because the above-quoted 9th paragraph of the said 2nd Act of 1723<sup>o</sup> extends the application of the 3rd Act of 1715 to the female succession, which said Act explicitly declares that "the King shall only rule in Hungary subject to and in accordance with the laws heretofore passed, and hereafter to be passed, and that the country shall never be governed according to the method of the other Provinces."<sup>p</sup> Of any other kind of union not a trace is to be found in the 1st and 2nd Acts of 1723.

3rd Act of  
1715.

Unity of  
Throne, in  
what sense re-  
ferred to in  
certain acts:

18. The particular dates and Acts which the Royal Rescript quotes, to demonstrate a more intimate real union, do not establish this real union, but, on the contrary, they confirm the political and administrative separation of Hungary. The unity of the Throne is, it is true, referred to, but this unity in the sense that one and the same Monarch reigns over us, and over the Hereditary States, no one will call in doubt. This constitutes no real union, but is the natural consequence, nay, the very essence, of personal union. A unity of the Throne, taken in another sense, is not to be found in them. The method, the conditions, and the forms prescribed by law, by which the Prince becomes King of Hungary, are one thing: the steps by which he ascends the Throne of the Hereditary States are another. He is bound to govern us according to one system, and rules the Hereditary States according to another. His Sovereign rights are legally not the same in all their parts here as there.

<sup>a</sup> See Rescript, § 3.

<sup>o</sup> See Note f, p. 13.

<sup>p</sup> See Note g, p. 14, and Note c, p. 45.

Even the personal union of the Throne would cease if all the issue of your Majesty's ancestor, the Emperor and King Leopold I, should fail; for in such a contingency, as we made clear in our first Address,<sup>1</sup> the country would, in accordance with the terms of the Pragmatic Sanction, be free to choose its own King, whilst the other Lands, according to the Pragmatic Sanction given to, and accepted by them, would devolve on the more remote female branches of the House of Hapsburgh.

Would cease in particular case.

19. Further, in the Royal Rescript the unity in the administration of foreign affairs is alluded to, and reference is made to the fact that since the ruling Family ascended the Throne Hungary has never had any special representatives abroad.<sup>2</sup>

Unity in administration of foreign affairs:

20. In our country there exist Sovereign rights, which the Constitution itself has vested in the person of the King; and since the King of Hungary is at the same time ruler of the Hereditary States, it follows, as a matter of course, that rights of this nature should be exercised both in relation to Hungary and in relation to the Hereditary States by the same Sovereign. From thence no closer real union can be deduced.

necessary consequence of Personal Union.

21. Such a Royal prerogative is the right of the King of Hungary, by virtue of which he decides of his own sovereign will the external relations with foreign powers, and foreign affairs generally. Our laws, namely, the 2nd Act of 1608,<sup>3</sup> and the 4th of 1681,<sup>4</sup> have stipulated that the ques-

2nd Act, 1608, 4th Act, 1681, insure:—due influence of Hungary in questions of peace or war;

<sup>1</sup> See First Add. § 21.

<sup>2</sup> See Rescr. § 6.

<sup>3</sup> Act II, 1608:—"Quandoquidem Dei beneficio, tam cum Hungaris, quam etiam cum Turcis, pax, et reconciliatio inita est: Act II, 1608.

"Ideo ut eam quoque Sua Regia Majestas observet, observarique faciat, nec sine præscitu, et consensu Regni, in Hungariâ et Partibus sibi annexis, ullum vel bellum moveat, vel militem extraneum introducat; decretum est."

<sup>4</sup> Act IV, 1681:—"Benigne annuente Sua Majestate conclusum itidem est; ut Pax cum Turcis, et omnia negotia Hungarica, juxta Articulum II. anni 1608, ante Coronationem; ac conditionem 3 et 13 Diplomatis Regii; sicut et Artic. XXV, anni 1613; XXIX, 1630; XXVIII, 1635; L, 1655; VIII, 1659; cum Consilio Hungarico tractentur, et concludantur: Act IV, 1681.

"§ 1. Taliterque tractata, et conclusa cum Regnicolis semper debito modo communicentur:

"§ 2. Ac puncta quoque ipsius pacis, solenniter per Comitatus publicenter:

"§ 3. Atque ut Residenti Cæsareo in Porta Ottomanica constituto, Hungarus etiam natus Residentis; ita et in Ablegationibus ad eandem Portam, in Negotiis Regni instituendis, Legato Cæsareo Nativus Hungaricus Legatus, cum æquali in Negotiis Hungaricis, tractandi autoritate, bonaque ad indicem correspondentia, juxta instructionem



that Hunga-  
rian resident  
be accredited  
to Ottoman  
Porte.  
104th Act,  
1723, 11th  
Act, 1741,  
17th Act,  
1790, provide  
for admission  
of Hungarians  
to diplomatic  
service.  
Country pos-  
sessed ample  
guarantee in  
control over  
taxes and le-  
vies of re-  
cruits.

11th Act,  
1741, provid-  
ing for re-  
presentation  
of Hungary in  
State Minis-  
try, applies  
solely to fo-  
reign affairs :

tions of peace and war, specially with reference to Turkey, should be subject to the influence of Hungary—that war should not be commenced in Hungary and its annexed parts, without the knowledge and concurrence of the country; that the articles of treaties of peace should be communicated to the Diet; that a Hungarian resident, with the same full powers as the Imperial resident, should receive like credentials to the Ottoman Porte; and many other laws, especially the 104th Act of 1723,<sup>u</sup> the 11th of 1741,<sup>v</sup> the 17th of 1790,<sup>w</sup> contain the stipulation that the Hungarians should not be excluded from the administration of foreign affairs, and that Hungarians should be admitted to the foreign embassies. But the supreme control of foreign affairs was placed in the hands of the King, and the country, satisfied with its highest and ample guarantee in its right to grant taxes and recruits, only desired that Hungarians should have their due influence in the administration of foreign affairs. This principle, too, in reference to foreign affairs, was carried out by the Diet of '47-'48, which, respecting the said Royal right, and maintaining it in its full integrity, established no special Hungarian Ministry for foreign affairs, but considered it sufficient that the Minister attached to the person of His Majesty should exercise the influence secured to the kingdom by the laws above enumerated.

22. The Royal Rescript brings prominently forward the fourth paragraph of the 11th Act of 1741,<sup>v</sup> in which a promise is contained that His Majesty will cause Hungary to be represented in the State Ministry; but, concerning the law alluded to, we must remark that the words cited from the same apply solely to foreign affairs. The country, as we above said, only desired to secure that, pursuant to our former laws, Hungarians should take part in the discussions on foreign affairs; and because foreign affairs were handled in the State Ministry, and because His Majesty administered them in accordance with the advice of the said State Ministry, therefore, and on this ground alone, the Estates of

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cum Consilio Hungarico eidem dandam, ad mentem Articuli L, anni 1655; XXXVI, 1630; LXXIV, 1647; VII, 1649; quos hoc loci renovant; constituatur et adjungatur.”

Act CIV, 1723.

<sup>u</sup> Act CIV, 1723:—“Ut, Regnicolæ, in Rebus et Negotiis Regnum Hungaricum tangentibus ad Legationes applicentur.”

Act XI, 1741.

<sup>v</sup> Act XI, 1741, § 1:—“Quod nimirum Res, et negotia Regni tam intra, quam extra Regnum per Hungaros tractabit, tractarique faciet.”

<sup>w</sup> Act XI, 1741, § 4:—“Et ad ipsum etiam Status Ministerium, Nationem Hungarum adhibere dignabitur.”

the Land required that Hungarians too should be named. This is corroborated by the 17th Act of 1790,\* which again confirming the said 11th Act of 1741, referred to in the Rescript, continues to declare that His Majesty will appoint Hungarians to the State Ministry, and will provide that such Hungarians as wish to be employed in the diplomatic service shall have the opportunity to fit themselves for the same in the Secret State Chancery. From these words of the Act it is clear that it was only in relation to foreign affairs that the country wished to have Hungarians placed in the State Ministry, from which no conclusion can be drawn that the internal administration of the country was at all dependent on the State Ministry.

Proved by  
17th Act,  
1790.

23. The Royal Rescript further alludes to the army, and its unity.<sup>7</sup> It is true that the Hungarian army fought against the enemies of their country and their King side by side with the troops of the other provinces; but there existed always an essential difference between Hungary and the Hereditary States in all that related to the military department. Hungary determined by its Diet the number of the Hungarian army, subject to no influence of the Hereditary States or their government, as very numerous laws, *c. g.* the 2nd Act of 1802,\* prove. In the Diet was determined the means of sustaining the Hungarian army, and

Unity in the  
army dis-  
proved.

Diet, subject  
to no influence  
of Hered.  
States, deter-  
mined :—  
number of  
Hungarian  
army ;  
means of pro-  
viding for it ;  
Act XVII,  
1790.

\* Act XVII, 1790, De Effectuatione Articuli XI, 1741 :—

"Articulo XI, 1741, hic per extensum vigori suo restituto sua M. S. ultro clementer declarare dignata est, se effectum Articuli hujus quoad omnes sui partes procuraturam, et ideo tam ad ipsum status Ministerium, Hungaros adhibituram quam etiam eos Ordines daturam, ut siqui de gente Hungarâ necessariis cæteroquin dotibus et qualitatibus instructi, animum ad Legationes obeundas adjicerent, iis in Cancellaria Status intima sese penitus formandi omnis requisita præbeatur occasio; justa denique Statuum et Ordinum desideria eatenus quoque, ut tam interna quam externa negotia, illa quidem per Hungaros hæc vero cum influxu etiam Hungarorum pertractentur et sic immediate Suae Majestatis decisioni submittantur expleturam; in reliquo autem altesatum S. M. curaturam, ut sancitæ quoque, quoad pacem cum Turcis ineundam, Constitutiones Regni effectum suum sortiantur."

<sup>7</sup> See Roy. Rescr. § 6.

\* Act II, 1802. Query? Beyond question a misprint for Act I, 1802, "De Suppletione Legionum Hungaricarum ad Triennium oblata." This Act authorizes the levy of 12,000 recruits, to raise the standard of the army to 64,000 effectives and ("objecto Militiæ Hungariæ tam quoad numerum, quam quoad modum suppletionis semper ad Pertractionem Diætalem pertinente") appoints and provides the machinery for the said levy. Act II, 1802, cited in the text, consists of the following single clause:—"Popularem Ignobilium Conscriptioem, juxta Formulam diætalter stabilitam, Status et Ordines, S. Majestate annuente, peragendum decernunt."

Act II, 1802.

amount of levies ;

manner and conditions of raising them. Diet further required statement of foreign relations and of any particular circumstances calling for additional aid. 2nd Act of 1840.

Diet passed acts to regulate voluntary enlistment ; provided for contingent expenses.

Foreign soldiers excluded from Hungary.

that often with material deviations from the system adopted in the Hereditary States ; the recruits necessary for keeping up the complement of the army were granted by the Diet, which filled up the gaps made in the Hungarian regiments, and without reference to the losses of the troops of the other provinces. In the Diet was determined the manner and conditions of levying recruits, without any regard to the method adopted in the other provinces. And in granting levies, not only did they take into consideration solely the deficiencies of the Hungarian regiments, but required that an account of the foreign relations should be laid before the Diet, and voted the recruits according to the necessity which they deemed these circumstances to impose. The correctness of this statement is established by our laws, of which it is sufficient to quote the following paragraph of the 2nd Act of 1840 : " Whereas, in accordance with the demand of the Estates based on the law, reports have been, in the name of His Majesty, laid before them of the position of foreign affairs, and of the present state of the Hungarian regiments, in consequence of these reports, and in consideration of these exigencies, the Estates grant, as subsidies, to meet the said requirements, of their own free-will and accord, and without prejudice, 38,000 recruits, under the following conditions."<sup>a</sup>

24. The Hungarian army was kept up by continuous voluntary enlistment besides the recruits from time to time voted. These levies also took place in accordance with laws passed by the Diet, and the Diet regularly voted the supplies necessary to keep up the same.

25. Our older laws especially provide that foreign military shall be kept out of the country, that the Hungarian soldiers shall always be brought back, that Hungarian Commanders shall always have the charge of Hungarian fortresses, and that the command-in-chief of the Hungarian troops shall devolve on the Palatine of the kingdom. The Hungarian Royal Council of Lieutenancy regulated the victualling and the quartering of the soldiery, and often, *e.g.* in 1790 and 1840, the Diet appointed Commissioners to prepare on these matters standing regulations. All this places it beyond a doubt that Hungary in military matters, both in political and in administrative respects, enjoyed Constitutional Independence, and that the clauses of the 3rd Act of 1848, which entrusted to a responsible

Act II, 1840.

<sup>a</sup> Act II, 1840 :—" De Subsidio in Tyronibus ad Legiones Hungaricas oblato." See Note d, p. 97.

Minister the administration of the military department, without prejudice to the Royal prerogative of the Hungarian King, was passed in accordance with the spirit of the former laws.

26. With regard to finances,<sup>b</sup> there is, perhaps, no circumstance concerning which it would be possible to quote so many laws to prove that the country has always striven to preserve its independence. The Vienna Chamber was always anxious illegally to meddle with the financial affairs of Hungary; but the country rejected every such interference with decision, and declared the independence of its finances several times, by laws passed and sanctioned. Among these, it will be sufficient to mention a few. The 5th Act of 1608<sup>c</sup> decrees that "the Treasurer of the Kingdom shall be elected, and shall be in no way dependent on the Austrian or Vienna Chamber, and that the other provinces shall in no way meddle with the revenues of Hungary." The 16th Act of 1723<sup>d</sup> confirms the last cited Act. The 14th of 1741<sup>e</sup> further enacts that "the independence of the Hungarian Chamber shall be maintained, that it shall send its report direct to His Majesty, from whom, personally, the Rescript to the same shall issue; and that all that relates to the Aerarium in Hungary and the annexed parts, including salt works and mines, pertain to the province of the Hungarian Chamber." The administration of the income of the country was, therefore, according to the law, independent of and separate from the administration of the other provinces. The determination of the taxes belonged

Complete financial independence constantly maintained.

5th Act, 1608;

6th Act, 1723;  
14th Act,  
1741;

show that administration of revenue, as well as determination of taxes, was exclusively province of Diet.

<sup>b</sup> See Roy. Rescr. §§ 6, 8.

<sup>c</sup> Act V, 1608:—"Generalis Regni Thesaurarius, qui sæcularis sit, a sua Regia Serenitate, juxta conclusiones Viennenses, ex Consilio Hungarico, sub præsentì adhuc Diætâ eligatur:

Act V, 1608.

"§ 1. Atque ut externæ nationes, deinceps in nullos omnino Regni, Partiumque ei subjectarum, proventus sese ingerant, neque a Cameris, Aulica, vel Austriaca, ullam plane dependentiam habeat; decretum est."

<sup>d</sup> Act XVI, 1723:—"De Cameræ Regiæ Hungariæ Autoritate, &c."

Act XVI,  
1723.

<sup>e</sup> Act XIV, 1741:—"De Camera Regia Hungarica. S. R. Majestate benigne resolvente conclusum est: Ut Camera Regia Hungarica in Activitate vigore Legum Patriarum eidem competente, plene et omnino conservetur:

Act XIV,  
1741.

"§ 1. Ac in uberiorem a Camerâ Aulicâ independentiæ demonstrationem; super Negotiis apud eandem pertractatis, Repræsentationes suas Regiæ Majestati immediate inscribat sicque expeditas Majestati Regiæ submittat, ac desuper Regia duntaxat Rescripta ex Aula recipiat:

"§ 2. Ut porro omnia illa quæ Regium in Hungariâ et Partibus eidem annexis Ærarium respiciunt, ac per consequens etiam Res Salis ac Montanisticæ eidem Regiæ Cameræ suæ Hungariæ subordinetur declarata."

to and was settled by the Diet, as we have already explained, without any influence being exerted on it by the Hereditary States.

Instance of  
Financial In-  
dependence.  
In 1811, Diet  
refused to  
guarantee  
100,000,000  
florins, paper  
currency, or  
provide for its  
redemption.

27. We will cite one further instance to illustrate our Constitutional Independence in this respect. In 1811, when the value of the immensely-increased paper currency had fallen to one-fifth, and when, to effect its redemption, a new paper currency, under the name of *válto czédulák*, was issued, His Majesty called on the Hungarian Diet to guarantee the value of this *válto czédulák*, and to lend a helping hand to its periodical redemption. His Majesty also sent Royal Commissioners to lay before a Committee of the Diet a detailed statement of the financial position and of the urgent necessities of the State, and to present a plan by which the evil might be remedied. These commissioners fulfilled their orders: they proposed that the country should take upon itself 100 million of the 211 million florins, *válto czédulák*, and should provide a certain fund for the redemption of the same. The Estates of the land deliberated on this question, and decided not to guarantee the 100 millions, nor to create any fund for its redemption.

28. Had Hungary not been independent and separate, His Majesty would not have called upon Hungary separately and specially to take upon itself a part of the said State-debt, nor could the country have refused to undertake the same.

29. This clear example, moreover, gives a practical proof of what follows, theoretically, from the principle of Constitutional Government: that State-debts contracted without the knowledge and consent of the country—nay, for the most part, not in its interest—from an equitable point of view, in no way concern Hungary. We do not mention this with any desire to withdraw from the assurance we gave in our first Address,<sup>†</sup> that we would not show any hostile opposition to the constitutional peoples of the Hereditary States; we declared, and we repeat, that we are ready to do all that we dare do,—that we can do without prejudice to our independence and our constitutional rights, over and above what our strict legal duty would prescribe,—on the ground of equity, and from political considerations, in order that the heavy burdens which the reckless conduct of the Absolute System has heaped upon us may not involve them and us in common ruin,—in order

OFFER—"To do all that we dare do without prejudice to our independence," to provide for heavy burdens imposed by past maladministration on both Hungary and Hereditary States—repeated.

<sup>†</sup> See First Add. § 27.

that we may avert the injurious consequences of the past period. We again repeat this, but at the same time repeat that in this matter, too, we will only deal with them as a free, independent, and separate country. But if no consideration is given to our political rights—if our legal independence is menaced—if, instead of our Constitution guaranteed by contracts, a new *octroyé* Constitution is forced upon us, then we shall be justified before God and the world if we never of our free-will consent to undertake burdens and obligations, to undertake which neither law nor equity can ground any claim upon us.

30. The Royal Rescript<sup>k</sup> maintains that Hungary has at all times been bound to take part in providing for the common necessities, and in bearing the common burdens of the State, which fell in the course of past years of war upon the shoulders of the peoples, and it appeals in this respect to the 63rd Act of 1741,<sup>h</sup> to the 2nd Act of 1796,<sup>i</sup> to the 2nd Act of 1805,<sup>j</sup> to the 2nd Act of 1807,<sup>k</sup> and to the 6th Act of 1808,<sup>l</sup> as proofs of a closer real union.

31. Let us look over these cited Acts, and consider the circumstances under which they were passed. In the year 1741 mighty enemies attacked the Throne of Maria Theresa.

*DECLARATION*  
that if constitutional independence be not respected "we shall be justified in refusing" to undertake liabilities not obligatory on us.

Rescript cites Act 63rd, 1741, and others, as indicating real Union.

Act 63rd, 1741,

<sup>k</sup> See Rescr. § 6.

<sup>h</sup> Act LXIII, 1741:—"De Generali Insurrectione modo infrascripto declarata. Postquam S. R. Majestas . . . Sacram Suam Personam, Augustasque Regias Proles, Fidei, et Consiliis fidelium Suorum Hungarorum clementissime committere dignata fuisset; quemadmodum . . . Status et Ordines . . . in defensionem justissimorum Regionum, et Regni, ac Sacræ ejusdem Coronæ in Articulis I. et II. Diætaliū anni 1723, Constitutionum, firmatorum, fundatorumque Jurium Vitam et Sanguinem sese impensuros unanimi assensu polliciti sunt; . . . siquidem necessarium Militem forma ordinaria sub signa cogere brevitatis temporis non sineret, spectatâ imminenti periculi magnitudine, Majorum suorum incitati exemplis, finem in præmissam, et pro hac duntaxat vice, ac necessitate, sub conditionibus denique, ac Cautelis; ne per id fundamentalibus Regni Legibus, avitisque Nobilium Prærogativis, Juribus et Libertatibus quocunque modo præjudicatum sit, et ne ex hinc futuris quibusve temporibus consequentia formari possit: *Generalem Regni Insurrectionem determinant.*"

Act LXIII, 1741.

<sup>i</sup> Act II, 1796:—"De libera Oblatione per Regnum facta."

Act II, 1796.

<sup>j</sup> Act II, 1805, obviously a misprint for Act I. of the same year, "De Generali Insurrectione (see Note I, *infra*) modo infrascripto declaranda," decreeing and providing minutely in thirty-two clauses for a general call to arms, on the basis of Act LXIII, 1741. To this Act that quoted in the text is merely supplemental, as may be seen from its title, "Quoad modum Insurrectionis in Regnis Dalmatiæ, Croatiae et Sclavoniæ renovatur, Art. LIX, 1741."

Act II, 1805.

<sup>k</sup> Act II, 1807:—"De libero oblato."

Act II, 1807.

<sup>l</sup> Act VI, 1808:—"De Oblatione in Tyronibus militariibus factâ."

Act VI, 1808.

2nd, 1796, &c.  
considered.

Maria Theresa was the lawful King of Hungary, and the country did everything to protect the King and her rights. To this the said cited Act, 63rd of 1741, alludes, saying "that whereas the nation is prepared to sacrifice blood and property for the defence of the rights of its Sovereign and the land, a general *Insurrectio*<sup>m</sup> is decreed;" but it specifically couples the condition that the laws of the land are to be maintained in their integrity, and that these extraordinary circumstances are not to be construed as a precedent. In 1796, 1802, 1805, 1807, and 1808, the victorious armies of France threatened our Fatherland and our Sovereign, and the Estates of the land granted, in the said quoted laws, for the defence of the country and the King, both recruits, and extraordinary subsidies. But with all these grants is coupled the express declaration that they are made of free-will and accord, and that, to guarantee the rights of the kingdom, they protest against the inference of any binding obligation from such free-will grants.

32. It is true that the nation has fulfilled a duty in making of its own free impulse these grants—its holy duty towards its country and its King.

33. But when in the hour of danger the nation hastened to respond to the call of its Sovereign, to save the country and defend the rights and interests of its King, it certainly little thought that a time would come when, after annihilating its legal independence, for its ancestral Constitution, a new *octroi* would be substituted—when patents would take the place of its fundamental laws—when it would not be permitted to exercise its rights at its own Diet, and when, in justification of these steps of arbitrary Power, those very Acts would be quoted which owed their existence to its faithful fulfilment of its patriotic duty—those Acts by which the

Insurrectio.

<sup>m</sup> "Insurrectio" is the rising of all the "Nobiles" to arms in obedience to a special Act passed by the Diet on the occasion. In all the cases cited in the text the Act follows one form. The Preamble, after reciting the various urgent circumstances calling for the measure, and provisos against its passing into a precedent, concludes, "Status et Ordines unanimi sensu Generalem Regni Insurrectionem decreverunt." The essential clause is in each case:—*Cujusmodi Generalis Insurrectionis titulo, Insurgens in conformitate Articuli VIII, 1715, (see p. 80, Note j,) universi Nobiles, et omnes illi, quos sub nomenclatione hac lex complectitur cujuscunque dignitatis, honoris, et status personae sint, vel per se, vel per statuendos idoneos equites arma capiunt.*"

The several Acts then proceed to order that over and above this "insurrectio" each noble shall, according to the necessity of the case, and in proportion to his estate, outfit and maintain, or contribute towards maintaining a certain number of men during a fixed period.

nation has proved that it understands how to exercise its legal rights in the interest of the King and the country—those Acts which have saved the Fatherland and the Empire. The princes, at whose call the quoted laws were passed, spoke not in the harsh tone of commanding authority to the Diets, but treated them as co-equal branches of the legislature; they spoke with attachment of the Constitution, with the trust-inspiring words of paternal affection; the nation heard with enthusiasm the fatherly call of the Sovereign, responded to it with filial confidence, and eagerly satisfied their requests.

34. The Royal Rescript<sup>a</sup> further mentions that the 21st, 98th, 104th, and 114th Acts of 1723 clearly point to a central government, to whose province should belong the direction of those matters which relate in common to Hungary and the other provinces.

Rescript further cites 21st, 98th, 104th, 114th Acts, 1723.

35. In our opinion, these said quoted laws in no way warrant this conclusion. The 21st Act of 1723<sup>o</sup> speaks of desertions and of the acts of violence of some generals, who in the fortresses had required certain benefices, as a portion of their ordinary payment. To investigate these claims, and arrange that if they proved valid due compensation should be provided from other sources, a mixed commission was chosen from the Estates, the Military Council, and the Court Chamber. It was necessary that the commission should contain plenipotentiaries from these two latter, because the accused generals were Germans. Had a central government existed, whose jurisdiction extended to Hungary, it would not have been necessary to appoint a commission on the part of Hungary through the Diet, but the whole circumstance would have been treated as a matter for the executive, and not for legislation by the said central body. The said quoted Act, therefore, on the contrary, shows that, just because no central government existed, Hungary came from time to time in contact with the Hereditary States, through their government, and was represented even in the field of administration by its Diet.

21st Act, 1723, appointing mixed commission to investigate certain claims.

36. The 98th Act<sup>p</sup> above quoted enacts that the Hungarian Council of Lieutenancy should use the seal of His Imperial Majesty, upon which is the double-headed eagle, and in the centre the arms of Hungary. Surely it is not

98th Act, 1723, on the arms of the Council of Lieutenancy.

<sup>a</sup> See Rescr. § 7.

<sup>o</sup> Act XXI, 1723:—"De Militiæ excessibus et Regalibus suffrendis."

<sup>p</sup> Act XCVIII, 1723:—"De Consilii Regii Hungarici Cancellaria, et Rationaria."

Act XXI, 1723.

Act XCVIII, 1723.



possible to conclude from this the existence of a common central government.

104th Act,  
1723, above  
alluded to.

37. The 104th Act<sup>a</sup> provides for the employment of Hungarians in foreign diplomacy in matters interesting Hungary. We have alluded to it in detail above.

114th Act,  
1723, on postal  
communica-  
tion.

38. In the 114th Act,<sup>b</sup> His Majesty promised to arrange the postal communication according to the report of the Postmaster-General. This, too, points to no central government. The posts of many European States were long in private hands; the family of Thurn and Taxis possessed and administered those of a great part of Germany: but from this it surely would not follow that this possession of the family of Thurn and Taxis in any way altered the political relations of those provinces. Besides, this Act expresses, not that the Postmaster-General of the whole Empire or any other central jurisdiction should determine the postal arrangements for Hungary, but that His Majesty, as Hungarian King, would do this after having consulted the Postmaster-General—a personage whose advice in the then undeveloped state of postal communication deserved every consideration. We must further remark, that the postal arrangements, when afterwards further developed, were placed, with regard to Hungary, under the sole superintendence and management of the Hungarian Royal Council of Lieutenancy and of the Hungarian Royal Chamber, which Dicasteria, as we have already shown, according to our positive laws, were entirely free from the control of any other power than the legally-exercised authority of the Hungarian King,<sup>c</sup> and independent of any governing body of the Hereditary States.

Reply of Re-  
script on Pala-  
tine's right of  
guardianship  
of infant  
King:

39. The Royal Rescript<sup>d</sup> further says that “the Hungarian legislature furnished a brilliant example of their care for the common interests of the monarchy when, in order that the government of Hungary should not be separated from that of the rest of the Empire, they passed the third paragraph of the 4th Act of 1741<sup>e</sup> in

<sup>a</sup> See *supra*, § 21, and Note u.

Act CXIV,  
1723.

<sup>b</sup> Act CXIV, 1723:—“De Cursu Postæ ordinando, Sua Majestas Sacratissima Generalem suum Postarum Magistrum audiet; et quod publica necessitas suadebit, benigne determinabit.”

<sup>c</sup> Rescript, § 7. See also First Address, § 22.

Act IV, 1741.

<sup>e</sup> Act IV, 1741:—“§ 3. Quodsi vero S. R. Majestatem (cui diutissima, et felicissima ad seram Posteritatem Vita ardentissime exoptatur) Divino sic disponente Numine, præmori contingeret; casu in eo, Sua Regia Serenitas, usque tempus Minorennitatis Augustæ illius Prolis, quam Successio, et Hæreditas Regnorum, ac Provinciarum immediate concernet, Regnum hoc, et Partes eidem annexas, Jure tutorio et Paterno nomine gubernabit.”

“ opposition to the said 2nd Act of 1485 (on the Palatine’s  
 “ right of guardianship of the King during his minority),  
 “ referred to by the Diet in its first Address.” The Diet,  
 “ in the paragraph referred to (the third of the 4th Act of  
 “ 1741), not only named the Emperor Francis the august  
 “ Consort of the Hungarian *King*, Maria Theresa, of illus-  
 “ trious memory, as co-regent, but provided for the con-  
 “ tingency of the minority of the successor to the Throne,  
 “ by transferring to him the lawful guardianship, with the  
 “ express declaration, that, by virtue of his paternal and  
 “ guardian power, he should govern Hungary, in common  
 “ with the other provinces of the Empire.”

citing 4th Act,  
1741, § 4.

40. If the Constitutional Independence of Hungary were  
 not clearly expressed in the Pragmatic Sanction and other  
 laws, this said 4th Act of 1741, in the Rescript referred to,  
 would alone establish it beyond all doubt. For the Estates  
 of the land chose the Consort of Her Majesty, Francis  
 Duke of Lorraine, Barri, and Hetruria—who had not yet  
 been elected Roman Emperor—co-regent with her most  
 gracious Majesty, and entrusted him with the guardianship  
 of the Heir to the Throne, in the event of his minority.  
 But they explicitly declared that this “ election took place  
 “ of their own free-will and accord, and that no Royal  
 “ Consort should be entitled to found claims upon this  
 “ Act as a precedent.”<sup>u</sup> They further provided that,  
 during the co-regency, the inseparability and hereditary  
 right of succession as by the 1st and 2nd Acts of 1723  
 established, should be unprejudiced ; that the laws and  
 privileges of the country should be maintained ; that the  
 office of Palatine should not be shorn of any of its pre-  
 rogatives ; that the affairs of the country should be  
 administered in accordance with the laws ; and that His  
 Majesty, the co-regent, should not exercise the highest  
 Royal functions, nor the *jura majestatica*, which, according  
 to the laws, belong only to the crowned Kings.

Answered.

Suspension of  
2nd Act, 1485,  
coupled with  
provisoes.

41. If Hungary had possessed no Constitutional Inde-  
 pendence, if, according to the laws, the right of guardian-  
 ship of the infant Hungarian King had not devolved on  
 the Palatine, then it would have been unnecessary to pass  
 this Act, seeing that to the father belongs the right of  
 guardianship naturally, as well as by the laws of the Here-  
 ditary States. But just because the political position of  
 Hungary is entirely different from that of the Hereditary  
 States,—just because there existed no real union, it was

Deduction.

<sup>u</sup> See First Add. § 22, and Note u on that §.

<sup>v</sup> See Note e, p. 97.

necessary to pass a separate law, that with reference to Hungary the father might not be deprived of the right of guardianship of his own son.

Said right of guardianship still devolves on Palatine.

42. The exceptional proceeding which the Estates took in this respect has left the rights of guardianship of the Palatine unimpaired; it has again confirmed them, not only because the Act was exceptional, limited to this particular case, and especially guarded against conclusions being deduced from it as a precedent, but because it declared, in as many words, that the rights of the Palatine were to remain inviolable. Inasmuch as the right of guardianship of the infant Hungarian King would still devolve on the Palatine, all the consequences we deduced from this circumstance against the real union, in our first Address, remain untouched.

Peculiar circumstances causing suspension of 2nd Act, 1485.

43. Further, we respectfully observe that the preamble of the said quoted 4th Act of 1741 enumerates the distinguished merits of His Majesty the Consort of the Most Gracious Empress, his having held the office of "Staatholder" in Hungary during eight years, the valour he had displayed in battle, the special affection he had shown towards the Hungarian people on repeated occasions, and the great services of his ancestors; it declares that he was specially destined by God and nature to be the partner of the cares of Her Most Gracious Majesty, and stating all these as motives, pronounces the election to have taken place unanimously, and of free-will and accord. The Royal Rescript asserts that the Diet did this in order that the government of Hungary might not be severed from the government of the other States, and that it coupled it "with the express declaration, that, by virtue of his paternal and guardian power, he should govern Hungary in common with the other provinces of the Empire." Of such a purpose, or of such a declaration, there is no trace even in a single word; there is not even an allusion to government in common. The idea of a common government is even excluded by the provision contained in the Act, that the government shall be according to the laws of the land, and that the rights, laws, and liberties of the country shall be maintained in their integrity.

Declaration attributed to the Act in Rescript not to be found in it.

Laws of 1848: did not originate rights of country, but gave them a form more adapted to the times:

44. We have gone into all these questions in detail, in order that in answering the Royal Rescript we might again lay before your Majesty the true and firm basis of the legitimate wishes we submitted to your Majesty in our first Address, and which the Royal Rescript distinctly refuses—a basis which the counter reasons of the Royal Rescript, and

the long series of Acts cited in it, entirely fail to shake—in order that we might prove that the rights of our country did not owe their origin to 1848, but that the same have existed according to our older laws. The Laws of 1848 have only given the rights of the nation a newer, clearer, and more determined form—a form more adapted to the requirements of the times. With regard to the relations between the nation and the Sovereign no new rights were created or established.

45. If the Laws of 1847-8 did create new rights, if they had altered the Public Law of Hungary, not merely in form, but in substance, we should still have the right to demand—as we do demand—all that they contain; for these laws were enacted by the Constitutional Legislature by the common consent of the King and the Nation: they are, therefore, binding until repealed by the same common consent of the Sovereign and the Nation.

Binding until repealed by common consent of king and nation.

46. The Royal Rescript\* maintains that “the Laws of 1848 made the attempt to create a Personal-Union, and that this attempt was in contradiction with the declaration contained in the preamble to those laws—that the unity of the Crown and the obligations of the country towards the whole Empire are to remain unprejudiced.”

47. But the personal union was not introduced by the Laws of 1848, but existed—expressed in the clearest form—in the Pragmatic Sanction, and we know no law which ever introduced a closer union. The cited preamble of the Laws of 1848, indeed, alludes to the legal relations of Hungary to the provinces placed by the said Pragmatic Sanction in an indissoluble union with it; but none of these legal relations are in any degree in contradiction with the said personal union, for we know of and acknowledge only those legal relations, which, as we have already explained, arise out of the personal union founded by the Pragmatic Sanction. The preamble further expressly alludes to the independence and separate existence of the country; but the declaration, to which the Royal Rescript appeals, that “the obligations of the country towards the whole Empire are to remain unprejudiced,” is not to be found in the said preamble.

Personal-Union not introduced by said Laws; nor in contradiction with preamble.

Declaration quoted by Rescript from Preamble not to be found in it.

48. The Royal Rescript\* asserts “that the attempt to carry out the Laws of 1848 produced in the first six months all those dangers which threatened the country and the whole Empire, through the effort to confine in

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\* Rescript, § 8.

“ the narrow circle of a personal union the preservation of  
 “ the united interest of the Empire, without regard to the  
 “ public law or the past history of Hungary ; that the fruit  
 “ of its attempted separation was the dangerous convulsion  
 “ which rendered necessary, during twelve years, an ad-  
 “ ministration at variance with the constitutional institu-  
 “ tions of Hungary.”

Laws of 1848  
 did not disre-  
 gard history  
 and public  
 law of Hun-  
 gary ; but de-  
 veloped it in  
 substance  
 and in form.

49. The Laws of 1848 disregarded neither the history nor the public law of Hungary ; on the contrary, the said public law received a further development similar to that of the other peoples of Europe. It was developed in substance by the abolition of urbarial relations, and the extension of political and civil rights to all classes ; it was developed in form by the substitution for the Dicasteria of a Parliamentary Government and a Responsible Ministry. But in what was the past history of Hungary disregarded by the said laws ? The history of the nation does not fail to afford examples of changes in its institutions and political laws, in accordance with the requirements of the times, with the consent of its Sovereign. If every such change were a disregard of the history of the country, the same complaint could be raised with equal justice against those laws which made the right to the Crown of Hungary hereditary in the male branch of the House of Hapsburgh, or those which extended the right of succession to the female branches, for these laws too were substantial alterations of the political law.

Charge re-  
 torted on  
 “ octrois ”  
 contained in  
 Rescript.

50. On the other hand, those *octrois* contained in the Royal Rescript, by which the Constitution of Hungary is transformed by absolute Royal power, by which a Diploma and a Patent are substituted for the most essential fundamental laws, and imposed upon us under the title of our ancestral Constitution, these changes not only overthrow our political law, but the principles on which it is based, and are without precedent in the history of Hungary.

Convulsions  
 caused not by  
 laws of 1848,  
 but by their  
 violation.

51. With regard to the convulsions alluded to in the Royal Rescript, your Majesty will permit us respectfully to observe that these were caused, not by the Laws of 1848, but by their violation, and the obstacles placed in the way of their execution. What was the source of these obstacles we pass over in silence, in order not to awaken the painful recollection of past times, out of a deep reverence for your Majesty's most gracious person.

52. On looking back to the events of that period one is struck with the fact, that in the year 1848, when our Constitution received a further development by laws sanctioned by the Sovereign, the same Sovereign gave a Constitution

to the Hereditary States. This Constitution was an *octroi*; it contained none of the separatist tendencies with which our laws are reproached; it did not even restore to the dominions of the Bohemian Crown the independence to which their past history entitled them, and which was destroyed by violence; yet this bureau-born Constitution, whose principles had been established by Royal power, was speedily revoked. If, then, these were faulty the fault at least lay not with the people; yet convulsion followed there also; there, too, the Absolute System was introduced.

Similar convulsions occurred in provinces receiving an "octroyé" constitution.

53. Even Croatia, which took up arms against the Laws of 1848, suffered our fate, and that of the other provinces. Croatia, too, lost its Constitutional Rights, and endured with us the whole burden of the Absolute System; and yet the reproaches made—in our opinion without cause—against the Laws of 1848, cannot in the most remote degree touch Croatia.

Fate of Croatia.

54. The convulsions, dangers, and the introduction of the Absolute System were, then, not the consequences of the laws of 1848, for the Absolute System was imposed beyond the jurisdiction of the Hungarian Laws—nay, even where they met with resistance.

55. The Royal Rescript<sup>x</sup> says that "your Majesty, of your Royal absolute power, has guaranteed the conditional re-establishment of the Constitution of Hungary, and has actually re-established the system of the Comitats<sup>y</sup> [county assemblies] and the lawful Hungarian boards of administration; but at the same time will bring the political position of Hungary into harmony with the indissoluble union, which binds it to the other provinces, and with the position of the Monarchy as a great power, which is not consistent with the continuance of the Laws of 1848, which prejudice the rights of the other provinces of the Empire."

56. With reference to the re-establishment of our Constitution, it is impossible to perceive any guarantee in the method in which this re-establishment has commenced. The ancient comitat system has only been half re-established; the greater part of its field of operation has been left in the hands of foreign functionaries, who even now proceed with the arbitrary power of an absolute system. By force they collect the taxes which the Diet has never voted, and compel the jurisdictions, officers, and individual citizens, at the very time the Constitution is declared re-

System of Comitats only half restored.

Taxes never voted, collected by force.

<sup>x</sup> Rescript, § 10.

<sup>y</sup> See Note n, p. 42.

established, to act against the fundamental laws of the land. In this illegal proceeding is employed even the regular army, whose purpose is a better and a higher one, which it has faithfully and gallantly fulfilled in the hardest times, and which it would have been the interest of the State to excuse from such kind of service. A part of the citizens—namely, all the new and old officials of the Absolute System here resident or domiciled—are exempted from the jurisdiction of all laws and tribunals of the land by an illegally issued ordinance of the Absolute Power, not only in relation to their official acts, but in criminal and civil cases. Indeed, with such a limited and confused sphere of action, it is only due to the energy of individuals and the presence of mind of the people, which knows how to endure and persevere, that we have not been plunged into the dangers of anarchy. Neither are the re-established boards of government legal: according to the 3rd Act of 1848 the conduct of public affairs ought to be in the hands of a responsible ministry, and not of the said boards. If an institution have been modified or superseded by the legislature, its restoration in the old form cannot be held lawful.

Part of citizens exempted from jurisdiction of legal tribunals.

Popular presence of mind alone prevents anarchy.

Expression of Rescript that Majesty restores Constitution conditionally "by Royal Absolute power" renders confidence impossible.

57. The very expression of the most gracious Royal Rescript, that your Majesty will restore, and that conditionally, the constitution, "*by your Royal absolute power*," tends to make confidence in the promised assurances impossible. The Pragmatic Sanction knows no Royal absolute power in the province of legislation. The Hungarian King may refuse his consent to the Acts submitted to his approval—can call upon the Diet to create new laws, but is bound to observe laws which have once received the Royal sanction, until repealed by the channel of ordinary legislation, as completely as the individual citizen who obeys in the King the constitutionally highest executor of those laws. The maintenance of the Constitution in its integrity is one of the clearly stipulated conditions of the Right of Succession in the Pragmatic Sanction. Both are in the position of reciprocity to each other; the Monarch, if he wishes to govern in the sense of the Pragmatic Sanction, can couple the maintenance of the Constitution with no other conditions than the recognition of his own right of inheritance, which the country, adhering to the Pragmatic Sanction, will not hesitate to give.

The principles of Diploma of 20th Oct. and of Patent of 26th Feb. lead not to Resto-

58. The course which the Royal Rescript adopts, of dealing with our laws and liberties with absolute authority, and striving to base the Hungarian Constitution on the principles of the Diploma of the 20th of October, and the

Patent of the 26th of February, may be an attempt to engraft a bureau-produced Constitution, but certainly leads not to the restoration of the Hungarian Constitution. We cannot abdicate the constitutional right which allows the legislative functions to be exercised only by the King in common with the nation. We cannot recognize a one-sided and arbitrary legislation as lawful or constitutional in our country. Might and power may again suspend our constitutional rights, may issue *octrois*, and administrate; but we must consider such suspension, such *octrois* and dispositions as unconstitutional, as a continuation of the Absolute System of the past twelve years in a new form, and cannot give our concurrence to the same without being untrue to our country and our own laws.

ration of Hungarian Constitution. Diet cannot abdicate its legislative functions or sanction by its concurrence forcible suspension of its rights.

59. Did our holiest duty and our conscience not command us to protest against this *octroi*, we should still cling to our own ancestral Constitution, because that Constitution which has sprung from the existence of the nation, and concurrently with the nation has grown to maturity, developed, and extended itself, according to all precedent answers its purpose better, and is more durable than an *octroi*. We could appeal in this respect to history, and quote examples from other countries; but we will only call to mind how many constitutions or systems taking their place have been introduced into the Austrian Empire since 1848, of which some have never come into operation, others have survived but a short time.

Own ancestral Constitution of a nation best because it has grown concurrently with nation to maturity.

The number of constitutions, *octroyés*, in Austria since 1848.

60. With regard to the rights of the Hereditary States and the Monarchy, which the Laws of 1848 are said to have prejudiced, we truly do not know what these prejudiced rights are, or in what respect the Laws of 1848 have prejudiced them. The Pragmatic Sanction was concluded between Hungary and its King; by it the identity of the ruling House and the consequent inseparability of the possessions of the dynasty was founded. Of a common government in this fundamental compact there is no trace; on the contrary, it was expressly provided that Hungary should be governed according to its own laws. The 10th Act of 1790<sup>2</sup> distinctly says "that Hungary is a free kingdom, and independent in the whole legal form of its government, that it is bound to no other kingdom or people, (*nulli alteri regno aut populo obnoxium*), but possesses its own independence and constitution."

Rights of Hereditary States how prejudiced?

61. If, then, Hungary be bound to no other kingdom or

<sup>2</sup> See Note c, p. 15.



people, how could it prejudice in its Constitutional Independence the rights of another nation, whilst constitutionally dealing with its own affairs in its own legislature? But the Laws of 1848 contain no other ordinances. Hungary does not wish to meddle with the legislature or government of any other country, and has the right to demand, in this respect, a reciprocal treatment.

Diet of 1848  
provided for  
common rela-  
tions arising  
out of Per-  
sonal Union.  
3rd Act, 1848.

62. We have no desire to endanger the existence of the Empire; we do not wish to dissolve the union lawfully existing through the Pragmatic Sanction. The personal union is a bond from which common relations spring, and these relations we wish to bear in mind. The 3rd Act of 1848, in the thirteenth clause, enacts that "an Hungarian minister shall be constantly attached to the person of His Majesty, to exert his influence, and responsibly to represent the country in all those relations which affect the common interests of the country and the Hereditary States." From this enactment it is clear that the Diet of 1848 wished to preserve in full that union which is expressed in the Pragmatic Sanction, and wished to be brought into contact, by means of its legal government, with the legal government of the Hereditary States on all matters of common interest.

*DECLARATION*  
that "we are  
prepared from  
time to time to  
confer with the  
constitutional  
peoples of  
Hereditary  
States."  
*Arguments*  
against Coun-  
cil of Empire.

63. And in as far as the conferences of the two independent governments should prove inadequate, particularly in matters pertaining to the legislature, we are prepared—as we have declared in our first Address—from time to time freely and openly to confer with the constitutional peoples of the Hereditary States—under provision for the protection of our independence—as one free land with another. By such means it will be much more easy to settle in special cases matters affecting our joint interests, than by a common Council of the Empire, to which we could not send deputies without sacrificing our most essential rights and our Constitutional Independence, and which Hungary would, moreover, enter with the anxious fear that, spite of all verbal assurances, she would be considered as an Austrian province—that, under the mask of constitutionalism, the attempt at incorporation, which the Absolute Power had so often though unsuccessfully attempted, was to be renewed. This anxiety, and its invariable companion, mistrust, would at every step impede the progress of deliberations, and often make them impossible—would finally either dissolve the Council of the Empire or lead the majority to conduct productive of bitterness and hatred, not between individuals, but between people and people, land and land. This, without doubt, would be the greatest blow that could reach the Empire.

64. Common relations between parties on an equal footing can only be settled if mutual confidence exists. Confidence cannot be established by force. Where no anxiety, and no ground for it exists, where free action is not excluded by force, common interests are the surest bond of union.

65. We are convinced that the Laws of 1848 do not endanger the judicious government or the position of the Empire as a great power. On the other hand, these are endangered by the system which the Royal Rescript wishes to compel us to adopt.

66. The Hungarian responsible Ministry, ordained by the laws, seems to be the point against which the objections of the Royal Rescript are principally directed; yet the nomination of these Hungarian ministers is in the hands of your Majesty. They would indeed be answerable to the Diet according to the fundamental axioms of Constitutional Government; but the responsibility of the counter-signature of legal ordinances would be an easy one, and Your Majesty surely does not wish to administrate contrary to Law. When the nation perceives an earnest intention to restore and maintain the Constitution in its integrity, and has no cause to fear the mutilation of its Rights, it will receive in its legislature with confidence the propositions of the Sovereign, and will follow without suspicion the legal steps of its government in the executive department. When time and circumstances require the modification of one or more ordinances of the law, it will either propose such itself or will give its careful consideration to such as the responsible Ministry shall propose in the name of your Majesty; for it will no longer have reason to apprehend the undue extension of Royal power, or to fear that its interests and the laws of the land will be sacrificed to the interests of others. A nation which sees its rights and interests secured, under the shield of its carefully-preserved Constitution and Laws, is not compelled to yearn for another position and other relations.

Hungarian  
responsible  
Ministry.

67. That government is not always the safest, best, and cheapest which at the moment is led from one day to the next with the greatest ease and most convenience. The shortcomings of a system of government, the errors committed in administration, often produce their bitter fruit only in the course of time. Those statesmen who fail duly to appreciate the different relations of the various parts of the State and their diverging vital interests, who either avoid the wearisome settlement of the more difficult questions, or cut the knot by setting up some theoretical and universal prin-

General re-  
marks on  
Government.

ciple, without weighing the possibility of practically carrying it out, or the injurious consequences to which its application may give birth—these statesmen often sacrifice the future of the State to their own convenience.

68. The position of a State as a great power depends not alone on the number of its regular army. An Absolute System is perhaps the more easy and convenient on account of the greater facility it affords for raising large armies ; but, spite of the strongest army, the State will still be exposed to calamities, if its protection does not exist in the good-will of its peoples. The Absolute System has existed with us twelve years, but it has not been productive of happiness among the people, made the State richer or increased its power. After a twelve-years' experience your Majesty has found it necessary to give up that System and commence a Constitutional course. It is more easy to govern constitutionally an empire which consists of one people, and whose unity is therefore a natural one, than an empire composed of many lands, in which the individual countries have a different constitutional independence, different rights and laws, entertain different conceptions of political rights, and hold different political opinions. If nations were without developed political feeling, and without will, it would be easy to fuse them together, and to supply the want of a natural unity by an artificial one. In former times, when constitutional notions and feelings of right had not penetrated so deeply all classes of the people, these attempts were often successful. In the present day, when nations and every class of the community feel the true value of political freedom and legal independence, and cling to them with pious attachment, it rarely succeeds in opposition to such feelings to range them against their will according to political theories. Such attempts are often attended with danger, for both individuals and peoples hold freedom of the will too dear a treasure to be sacrificed even in exchange for what would, if chosen of their own accord, have been useful to their interests.

Real-Union  
may be useful  
if result of  
mutual con-  
sent :

69. A closer union, entered into by mutual consent, may often be useful, and is at least not unjust in its form ; but when a Sovereign, by force of his absolute power, compels a land to such a union as entails a substantial change in its Constitution, and a sacrifice of its most valued Rights ; when the Sovereign does not even invite previous deliberations on these Royal orders emanating from his absolute will, but commands their immediate fulfilment, can a union of such a nature be just, or answer its purpose ?

Will the country not regard it as a heavy blow aimed at its holiest privileges? Will it willingly support and defend that which it endures with the bitterest feelings? Will it not rejoice at every danger, every misfortune, which, by threatening the whole, affords it some hope of being able to burst those bonds which fetter it to others against its will? Can the empire become strong and mighty when its people entertain such feelings? Or can the government, under such an intimate compulsory union, be more easy than under one less close, but willingly adopted, which galls nobody, and which the nation finds consistent with its Rights and its Constitution?

If compulsory must be injurious.

70. We wish to remain in love and concord with the peoples of the Hereditary States, in the Union expressed in the Pragmatic Sanction, under the rule of the same Sovereign, dividing equitably with them their burdens and sufferings. This can be the case, consistently with the maintenance of our legal Independence in its integrity, without exposing the objects or safety of the State to the least danger. Why, then, should sacrifices be demanded of us which we dare not make? Why are we called upon to renounce our Rights, acquiesce in the overthrow of our Constitution, and abjure the objects of our most pious affection? Why is this done, without our previous assent being asked, in the form of an ordinance, and that at the very moment when your Majesty promises in your Royal Rescript, that, "both in the choice of persons and in the form and system of administration, Hungary shall be governed according to its Constitution," when your Majesty assures us that "it is not your Majesty's intention to amalgamate the dominions of the Crown of St. Stephen with the rest of the Empire?" Why are our wishes and our interests brought into direct conflict with those of the Hereditary States? Why, instead of love and concord, which alone can produce a durable and firm union, are the seeds of jealousy, bitterness, and even of hatred, planted among those nations whose geographical position and past history invite them not to mutual hostility, but in peace and brotherhood, independently to give one another reciprocal defence and support? Why is the nation forced to the conviction that, after what has happened in such a manner, it has nothing more to lose?

Union expressed in Pragmatic Sanction consistent with safety of State.

71. A forced unity will never make the Empire strong.

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• See Rescript, § 4.

The outraged feeling of the individual states, and the bitterness arising from the pressure of force, awaken the desire for separation, and therefore the Empire would be the weakest just at the moment when it would be in want of its united strength and the full enthusiasm of its peoples. The position of an empire, as a great power, whose unity can only be maintained by force of arms is precarious, and least safe in the moment of danger.

State not even offering its citizens material prosperity is unwise in mutilating political rights.

72. The mutilation of the political rights of the country is an injustice, and will always give rise to feelings of bitterness and discontent. A State which, by its well-ordered relations, can offer its citizens material prosperity, can for a time venture upon such a step with comparative impunity, for the satisfaction of material interests with many diminishes the feeling of the loss, although it can never be a politic measure even in such a State to deprive a nation of its rights. But if a State, whether through errors, or through misfortune, can do very little for the increase of material prosperity—nay, is compelled for self-support to impose fresh burdens on its nearly exhausted citizens, to call again and again for new sacrifices—such a State is acting in opposition to its interests in abridging the political rights of the nation and thus outraging its feelings. The heavy burdens press more heavily as the conviction gains ground that the political rights are menaced; the just feeling of bitterness undermines every willingness to sacrifice, and extinguishes all confidence in a power which *cannot* aid the material interests of its citizens, and *will not* spare their political rights.

Idea of a "centralized unity of the Empire" failed with the Absolute System :

73. The Absolute System, which deprived not only Hungary, but the Hereditary States of their Constitutional liberty, established as its ruling principle the idea of the *centralized unity of the Empire*. The statesmen who originated this idea were convinced that this great united Austria which they were to create would raise itself to a pitch of power such as the Empire had, up to this time, never attained. In carrying out this plan they met with no active opposition, for none refused obedience to the harsh mandates of Absolute Power; they destroyed and levelled everything which stood in their way; they spared neither pains nor money, and within twelve years spent the incomes of generations yet unborn. After twelve years the Empire had neither increased in extent nor in power, but its burdens had grown prodigiously. Then your Majesty, of your own accord, put an end to a system which did not answer its purpose; but the idea which the Despotism

adopted as its guiding principle, to which it sacrificed every consideration of right, the idea of centralized unity, your Majesty has still retained. Your Majesty hopes to carry out by Constitutional agency what the Despotic System failed through a series of years to accomplish.

74. In our opinion, those difficulties, which, under the Despotic System, the idea of centralized unity had to encounter, and which prevented its realization, will become even more formidable under a Constitutional form of government. The most effective means of the Absolute System was unlimited power, which required, both in the province of legislation and in that of the executive, unconditional obedience, against which none dared raise a complaint. In Constitutional life such a force cannot be exercised. Every country has recollections, hopes, and wishes, which are holy to it: these were suppressed under the pressure of the Absolute System, but will obtain expression now that each one has the right to lift up his voice in the interest of his country. Feelings and ideas will extend themselves; and because a "centralized unity" is in opposition to the past of the individual lands, to which these look back with pious recollection, because it is opposed to the hopes they nourish for the future, the practical carrying out of centralized unity will have to contend not only with hostile feelings, but, in the course of open deliberations, with opposition and considerable difficulties. Yet the pressure of Royal arbitrary power and Constitutionalism cannot even be conceived as co-existing.

How should it succeed under constitutional government?

75. We are convinced that between countries, whose customs, interests, historical past, and constitutional position, are so different, to bring about by constitutional means a centralistic unity is impossible. If therefore your Majesty wishes your Empire to be free and really strong, your Majesty cannot attain that object by a compulsory unity, but by a mutual understanding, arrived at through the free consent of the nations; and for this purpose your Majesty cannot take as a starting-point that theoretically, perhaps, much promising, but practically utopian idea of a centralized unity. Our Constitutional Independence and our Laws of 1848 stand not in antagonism to the real interests of your country, of the dynasty, of the Hereditary States, or of the Empire. It is not because we have clogged the government of the Empire that the complete restoration of the Hungarian Constitution is refused, and the undeniable right, which in practice as in theory has never ceased to exist, of voting our supplies of men and money, has been

Real strength of Empire not to be obtained by compulsory Centralization.

Austria was a great power when Hungary was independent.

taken away; it is not because these were found incompatible with the position of Austria as a great power. Austria *was* a great power when the Diet of Hungary voted its own taxes and levies of recruits; it was then a power which a long series of misfortunes could not bend; and when the victorious enemy had taken possession of the greatest part of the Empire—when scarcely anything remained in the possession of the Sovereign but the dominions of the Hungarian Crown—that Hungary, which it is now sought to shear of its Constitutional Rights, in the nominal interest of the Monarchy, never cooling in its fidelity and its enthusiasm, used those Constitutional Rights and all its strength to lend a helping hand in wresting from the enemy the conquered parts of the Empire.

76. The real motive of the stroke aimed at us consists in this, that our Constitutional Independence and our Laws are not compatible with that idea of centralized unity which has been transplanted from the Absolute System to the ground of Constitutionalism, and, even now, unfortunately, is considered as a leading principle, and a point of departure. Yet, do right and justice permit that the holiness of fundamental contracts, the most essential parts of the Constitution of a nation, the most undoubted rights of the Land, and the fundamental axioms of the Constitution, should all fall a sacrifice to a new idea, which through twelve years has crushed every liberty, has repressed every legitimate demand, stifled every political consideration, has cost the State so many sacrifices, and in the end proved itself purposeless? Is it well for the Empire to adopt means, in order to favour a new experiment, which deeply outrage the interests and feelings of the nation, which crush out all its faith and confidence, and, whilst attempting a unity, render impossible a cordial understanding, which is the only sure basis of unity?

Rescript cites

4th Act, 1687;  
8th Act, 1715.

77. Your Majesty asks the Diet<sup>b</sup> “to follow the example of its predecessors, who never failed to appreciate the unavoidable calls of circumstances altering from time to time —as the 4th Act of 1687, the 8th Act of 1715, as well as the 1st and 2nd Acts of 1723 evidence—who were always prepared to bring the political position of Hungary into harmony with the common interests of the Empire.”

4th Act, 1687.

78. The 4th Act of 1687<sup>c</sup> repeals the clause of the Aurea

<sup>b</sup> See Rescript, § 15.

Act IV, 1687.

<sup>c</sup> Act IV, 1687:—*Title*. “Secundi Andreæ, Regis Hierosolymitani Articulus XXXI. de Anno 1222, certa sui in parte explanatur.”

Bulla<sup>d</sup> of Andreas II, which gives every noble in the country, individually and personally, the right of offering

Omitting the Preamble.

“ § 1. Hoc nihilominus etiam in passu, pro ulterius contestandâ devotione, et humillimâ incontaminatâ fidelitatis obligatione suâ ac radicatus eliminandâ diffidentia, quæ inter Regem et Regnum, eidemque annexas Partes, eapropter fors in futurum suboriri posset; iidem Status, et Ordines, demisse complacenti, et subdito animo annuerunt; præ-narratæ Clausulæ, de contradicendi, et resistendi licentia interpositæ, a tenore, et sensu præcitati Articuli XXXI. præinserti Decreti Secundi Andreæ Regis, concomitanterque et inaugurali Juramento præ-narrata formâ deposito; mediante præsentis Articulari constitutione exclusæ et semotæ.

“ § 2. In reliquo tamen, eodem Articulo, et ejusdem Decreto, in omnibus suis punctis, conditionibus et clausulis, in suo pristino vigore, et statu permanente.”

<sup>d</sup> The “Andreæ II. Regis Decretum,” or Aurea Bulla, enacted in 1222, just seven years later than the Magna Carta of King John, was the first written embodiment of the ancient customary rights and privileges of Hungary. It reduced these to legal shape, and formed an incontrovertible basis on which to appeal in subsequent controversies.

Aurea Bulla  
of 1222.

Its principal clauses were as follow :—

“ Art. 2. Volumus etiam quod nec Nos nec posterî nostri, aliquo tempore Servientes [the nobles] capiant, vel destruant, favore alicujus potentis: nisi primo citati fuerint, et ordine judiciario convicti.

“ Art. 3. Item, nullam collectam, nec liberos denarios (quasi dona et oblationes gratuitas) colligi faciemus super prædia Servientium :

“ § 1. Nec in Domos, nec Villas descendemus; nisi vocati.

“ § 2. Super populos etiam Ecclesiarum ipsarum, nullam penitus collectam faciemus.

“ Art. 4. Si quis Serviens sine filio decesserit; quartam partem possessionis filia obtineat: De residuo, sicut ipse voluerit, disponat.

“ § 1. Et, si morte præventus, disponere non poterit; propinqui sui, qui eum magis contingunt, obtineant: Et, si nullam penitus generationem habuerit, Rex obtinebit.

“ Art. 5. Comites Parochiani prædia Servientium non discutiant nisi causas monetarum et decimarum. [Probably ‘causâ’ is the true reading.]

“ § 1. Comites Curie Parochiani nullum penitus discutiant nisi populos sui castri.

“ § 2. Fures et latrones, Bilochi Regales discutiant ad pedes tamen ipsius Comitis.

“ Art. 7. Si autem Rex extra Regnum exercitum ducere voluerit; Servientes cum ipso ire non teneantur, nisi pro pecuniâ ipsius. Et post reversionem iudicium exercitus, super eos non recipiat.

“ § 1. Si vero ex adversâ parte exercitus venerit super Regnum; omnes universaliter ire teneantur.

“ Art. 11. Si Hospites (seu alienigenæ) videlicet boni homines, ad Regnum venerint; sine consilio Regni, ad dignitates non promoveantur.

“ Art. 12. Uxores decedentium vel damnatorum ad mortem \* \* non fraudentur dote suâ.

“ Art. 13. Jobagiones (Higher nobles) ita sequantur curiam vel quocunque proficiscantur; ut pauperes per eos non opprimantur nec spolientur.



8th Act, 1715.

resistance to the King, whenever the King acted in violation of the said Aurea Bulla. The 8th Act of 1715<sup>1</sup> authorizes the creation of a standing army for the protection of the Kingdom, whose pay, as well as other subsidies, shall be determined by supplies to be voted by the Diet. In these Laws not a word is found referring to the Empire, its interests, or the Hereditary States. The right of individual resistance was not abolished, or the institution of a standing army introduced, "in order that the political position of Hungary might be brought into harmony with the common interests of the Empire." All this would have been enacted if no connection through the person of the Sovereign existed with the Hereditary States, for the interests of the Land required that the dangerous right of individual resistance, which many abused to the injury of the State, should be repealed; the creation of a standing army was necessary to the safety of the Kingdom. With regard to the 1st and 2nd Acts of 1723, the Hungarian Pragmatic Sanction, we have over and over again expounded our views, and proved that in them is contained no trace of any common system of government, or of any other unity of the Empire, except the right of undivided possession which the dynasty enjoys by virtue of the personal union.

A difference

79. There is moreover a substantial difference between

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" Art. 14. Si quis Comes honorifice se juxta Comitatus sui qualitatem non habuerit, vel destruxerit populos castri sui; convictus super hoc, coram omni Regno dignitate sua turpiter spoliatur, cum restitutione ablaturum.

" Art. 17. Possessionibus etiam, quas quis justo servitio obtinuerit; aliquo tempore non privetur.

" Art 19. Jobagiones castrorum (rustici), teneantur secundum libertatem a Sancto Rege Stephano institutam.

" § 1. Similiter et hospites, cujuscunque nationis, secundum libertatem ab initio eis concessam, teneantur.

" Art. 26. Possessiones extra Regnum (extraneis) non conferantur.

" § 1. Si sunt aliquæ collatæ vel venditæ (extraneis); populo Regni ad redimendum reddantur.

" Art 28. Si quis ordine judiciario fuerit condemnatus, nullus potentum possit eum defendere.

" Art. 31. § 2. Quod si vero Nos vel aliquis Successorum nostrorum, aliquo unquam tempore, huic dispositioni nostræ contraire voluerit, liberam habeant harum auctoritate, sine notâ alicujus infidelitatis, tam Episcopi quam alii \* \* \* resistendi et contradicendi Nobis et nostris Successoribus in perpetuum facultatem."

It is this last clause which was repealed by the IVth Act, 1687, § 1. (See Note c, p. 1. Compare it with 61st chapter of Magna Carta of King John.)

Art. 31. § 1. enacts that this Charter is to be executed in seven copies, sealed with the golden seal, the first to be sent to the Pope, and the others to be severally deposited in the respective places therein specified.

the method of enactment of those Laws and the *octroi* announced in the most gracious Royal Rescript. There the King did not alter, of his own supreme power, the Hungarian Constitution, by Imperial Diplomas and Patents; he did not deprive the Hungarian Diet of the exercise of its own rights. The said Laws were passed by the channel of ordinary legislation, upon the basis of mutual negotiations, by common consent of the Nation and the King. How different all this is now the whole contents of the Royal Rescript prove.

between those Laws and the Royal "*Oc-troi*."

80. Your Majesty declares, in the most gracious Royal Rescript, "that your Majesty has given validity to part of "the Laws of 1848, but never has, and never will, acknowledge the other part;"\* and, side by side with this declaration, your Majesty asks the Diet "to modify a part "of those Laws, and to submit to your Royal sanction Acts "for their repeal."

Rescript declares that Majesty "has given validity to part of Laws of 1848, but will not acknowledge other part."

81. Sanctioned laws remain in force until repealed by the Legislature, and with respect to the validity of special articles, no difference, no gradation can be set up. Your Majesty can only exercise the full Legislative Power if your Majesty again wishes to rule absolutely. As Hungarian King your Majesty can only exercise the Legislative Power, according to the Pragmatic Sanction, in unison with the country; your Majesty has not the power of repealing or rendering void any of our laws without the concurrence of the Diet; and just as there exists no necessity for your Majesty to give fresh sanction to the Laws of 1848, which have already received the sanction of the Sovereign, so declared non-recognition on the part of one of the legislative factors cannot invalidate them.

As Hungarian King, Majesty can neither give additional validity nor invalidate sanctioned laws.

82. Your Majesty is pleased to declare, in your most gracious Rescript,<sup>†</sup> that "it is your pleasure to confirm "the principles of the Laws of 1848, by which the privileged position of the nobility is abolished—the qualification to possess property and hold office extended to "all—the obligations of the Urbarium, the Tithe, and those "of the subject class cancelled, the duty of aiding in supporting the burdens of the State, the liability to serve "in the army, declared common to all, and, lastly, the "right of suffrage extended to classes who before had not "enjoyed it." Will your Majesty permit us respectfully to observe that these principles and the ordinances of these laws would have continued in force *de jure* and *de*

Laws of 1848 reviewed.

\* Rescript, § 13.

† Ibid. §§ 14, 15.

‡ Ibid. § 12.

*facto* without any such fresh corroboration? Up to 1848 Hungary was represented in its legislature by privileged classes ; but among these representatives were many who had striven for years to extend its too aristocratic constitution to other classes of the people, according to the exigencies of the time. Their endeavours rarely met with support, often with obstruction from the highest Power. At last the Diet of 1848, composed solely of the privileged classes, of its own free impulse, without force or pressure, abolished the Urbairal relation, introduced equality of civil rights and duties, and extended to all classes civil as well as political rights.

83. These laws received the sanction of the Hungarian King and were moreover put in force. To abolish or repeal these laws, and to re-establish the former state of things, even the full authority of the Sovereign would be powerless. We believe that your Majesty does not wish to do it ; but we also believe that, if such were your wish, your Majesty could not accomplish it, not only because it is dangerous to take away rights once given to a people, but because those privileged classes who created the laws could not rest satisfied at such an outrage on the rights of the people, because among the aristocracy of Hungary there exists not one individual who would so far forget justice and his most solemn duties as a citizen as to take back, even in obedience to Royal ordinances, privileges voluntarily abandoned, and accept the restoration of the materially favourable, but morally branding, ancient system.

Diet anxious  
to change  
certain points:  
but is incom-  
petent until  
"completed."

84. Among the ordinances of 1848 there are single points which, whilst maintaining unimpaired the rights of the people we ourselves desire to transform and more clearly to define. But we can only prepare and submit to your Majesty bills on this subject when the Diet shall have been completed according to law ; for in the absence of those who ought to have been invited, but have not been invited, we cannot create laws. If, therefore, your Majesty desires the alteration of any part of these laws, the "completed" Diet will take into its immediate consideration any proposition which a responsible Hungarian Ministry may propose, and submit to your Majesty such result as it may agree to. What has been commenced in this way, and agreed to by a common understanding between the King and the Nation through the Diet, will require the confirmation of your Majesty's sanction, after coronation, according to law ; but all those ordinances of formerly sanctioned laws, whose change is not sought, or not agreed to by mutual under-

standing of both parties, are to be regarded as valid without further confirmation. Such must be the case in every Constitutional country, where the power of legislating is divided between the Sovereign and the Nation, otherwise the division of the legislative power would not be a reality, but a fiction. So enact also our fundamental laws, and specially the 12th Act of 1790,<sup>b</sup> which expressly says, that "the right " to create laws in Hungary and its annexed parts, to " repeal and interpret them, belongs only to the legally- " crowned King conjointly with the Estates in Diet legally " assembled, and otherwise than in the Diet cannot be ex- " ercised."

12th Act,  
1790.

85. Whereas your Majesty, in the Royal Rescript, calls upon us to modify, nay, to repeal the Laws of 1848, your Majesty does not follow the trace of the said fundamental laws, but departs from the principles of the Constitution. Your Majesty has with absolute power suspended sanctioned laws, and prevented the same from being put in force, and calls upon the Diet to modify a part of those laws, and to repeal another, whilst at the same time your Majesty declares "that you never have acknowledged, nor in future, ever " will acknowledge them." Where is, after such a declaration, the mutual understanding through the Diet? Where is the bilateral exercise of the legislative power? From the conception of Constitutional legislation it follows that when both branches of legislature cannot agree in the creation of new laws, then no new law is possible; on the other hand, that if the two branches do not agree to accept a modification or repeal of an existing sanctioned law, such law remains binding and in full force. But according to the said declaration of your Majesty, such points of the laws which your Majesty wishes to modify or repeal without consulting the will of the nation, are declared invalid. Your Majesty, therefore, would be exercising the power of legislation, whilst the Diet would retain no other right than that of registering the orders of the Sovereign; and whether it obeyed these mandates or not, such only of the sanctioned laws would be binding as it might please the absolute power of the Prince to permit for the time being.

Majesty ex-  
acts repeal of  
Laws of 1848;

while declar-  
ing "that you  
never have,  
and never will  
acknowledge  
them."  
Where then is  
bilateral exer-  
cise of legisla-  
tive power?

Majesty would  
leave Diet  
only right of  
registering  
Royal Man-  
dates.

86. Only an existing law can be modified or repealed; but your Majesty calls on the Diet partly to modify, partly to repeal the Laws of 1848. If these laws do not *de jure* exist, to modify or repeal them is impossible, or at least superfluous: if they do exist, of which there is no doubt,

If Laws of  
1848 exist,  
why not put  
in force?  
If not, how  
modify or  
repeal?

<sup>b</sup> See Note p, p. 16.

Diet can then only discuss repeal when unconstitutional suspension has ceased.

Confirmation and non-recognition not confined to Laws of 1848. Majesty confirms, *e. g.* Act of 1844; and treats as null most essential Statutes, *e. g.* 10th and 12th Acts, 1790; 8th Act, 1715; 19th Act, 1790; 4th Act, 1827.

they must be put in force, and to perform this falls within the province of the Royal authority. Before the Diet can deliberate on the modification of these laws, or their partial repeal, it is imperatively necessary that their unconstitutional suspension should cease.

87. And it appears that your Majesty does not confine the course of re-confirming some laws, and refusing to acknowledge others, to the Laws of 1848, but extends it to former laws. The confirmation expressly includes the universal qualification for possession and for office decreed not by the Diet of 1848, but by the Diet of 1844. The non-recognition extends not only to the Laws of 1848, but, over and above them, to our older and most essential laws, since your Majesty modifies of your own authority the same, and alters their whole form and substance by Imperial Diplomas and Patents without the concurrence of the nation. Such laws, among others, are the 12th Act of 1790, on the conjoint exercise of the legislative power; the 10th Act of 1790,<sup>1</sup> assuring the independence of the kingdom; the 8th of 1715,<sup>1</sup> the 19th of 1790,<sup>k</sup> and the 4th of 1827,<sup>1</sup> declaring and

<sup>1</sup> See Note o, p. 15.

Act VIII,  
1715.

<sup>1</sup> Act VIII, 1715:—"De Insurrectione et Contributione.

"Quandoquidem Nobiles, et omnes illi, quos sub nomenclatione hæc (cujuscunque sint honoris, dignitatis et status, Personæ) in Hungaria Lex complectitur, pro Regni defensione militare; adeoque personaliter insurgere, suaque respective Banderia producere, et præstare teneantur:

"§ 1. Id Sacra Cæsarea Regiaque Majestas quoties necessum esse judicaverit, ad conformitatem hactenus sancitarum superinde legum, a modo imposterum quoque desiderare, et exigere poterit.

institutes  
standing  
army.

"§ 2. Quia tamen per eam solam, Regnum hocce sufficienter defendi nequiret, adeoque validior, et Regulata Militia, tum ex Nativis, tum Externis constans pro omni eventu intertenenda veniret, quam sine stipendiis subsistere; hæc vero sine contributione comparari non posse, indubitatum esset; hinc Subsidiorum et Contributionum eatenus necessariorum materia, diætaliter (quo aliunde spectare dignoscitur) cum Statibus deliberanda erit.

"§ 3. Ubi vero extraordinarius inopinatæ irruptionis hostilis Casus emergerit; aut varii et improvisi flagrantis Belli ratio, ordinariam rei tam arduæ tractandæ methodum, et formam non admitteret; pro ejusmodi casibus iidem Status, et Ordines, non solum Consultum, ast et necessarium esse statuerunt; ut Palatinus et Primas Regni, item Prælati, Barones, Tabula Judiciaria Regia Comitatusque, et Regiæ ac Liberæ Civitates, in quantum, et quo frequentiori numero fieri poterit, intra, et non extra Regnum convocentur.

"§ 4. Qui cognita hujusmodi inopinatæ necessitatis causa, eaque ad utilitatem et necessitatem Regni pro sufficienti agnita et adinventæ; in puncto hujusmodi contributionis (et non aliorum Regni negotiorum) deliberare et decernere possint."

Act XIX,  
1790.

<sup>k</sup> Act XIX, 1790:—"De Subsidiiis et Contributione.

providing for the granting of supplies of men, and votes of money solely by and through the Diet. Indeed, the Royal Rescript gives us no means of knowing whether your Majesty purposes to consider as binding those laws of which your Majesty does not expressly declare that you confirm them, nor can we know how far the non-recognition and practical suspension extends. Will your Majesty permit us, with respect, to repeat that all this is a violation of the Pragmatic Sanction?

88. But what has most astonished us, and we think every constitutionally feeling citizen throughout the whole Empire, is the enunciation of that most unconstitutional principle, that "*your Majesty does not consider' yourself personally bound to recognize the Laws of 1848.*"

Majesty "*not personally bound to recognize Laws of 1848.*"

89. If the Sovereign has the right not to consider personally binding on himself the laws sanctioned by his predecessors, what guarantee have we for our Constitution, for our legal liberty, for laws created and to be created; on what are the peoples of the Empire, on whom your Majesty has bestowed constitutional liberty, to rely? Every successor of your Majesty can declare that he does not think this or that Constitution, which his predecessor has sanctioned, compatible with the interests of the Empire, or with its position as a great power, and does not consider it binding for his person. If we cancel from the Constitution that continuity of obligation which passes from generation to generation, and binds as much the Sovereign as his peoples; every Constitution, the safety of every State, becomes the plaything of circumstances. This continuity is the basis of the liberty of the people and of the Throne, of the Sovereign, and of his hereditary right of succession. The denial of that continuity annihilates that interposing power, without which, on a collision of interests, every question must be decided by arbitrary force, or by the edge of the sword, without which peoples and their princes would have no other choice

Where then guarantee for past or future laws?

Without continuity of obligation safety of State becomes plaything of circumstances.

"Non absimiliter et de eo plene securos reddere dignata est Sua Majestas Sacratissima Status et Ordines Regni, Partiumque Adnexarum, quod subsidia cujuscunque nominis sive in ære, sive in Naturalibus, aut Tyronibus, nec Statibus et Ordinibus, nec Ignobilibus Arbitrio Regio imponentur, imo nec prætextu liberæ Oblationis, aut alio quocunque Titulo extra Diætam, salvâ Dispositione Articuli VIII, 1715, per Articulum XX, 1741, uberius declarati, sollicitabuntur, quantitas vero Contributionis, pro intertentione stabilis Militiæ destinatæ, semper in Comitibus Regni ab unâ Diætâ ad aliam determinabitur; reliquis etiam præcipati Articuli VIII, 1715, tenoribus in salvo relictis, ac ultro pro confirmatis hisce declaratis."

<sup>1</sup> See Note k, p. 48.

but Absolute Government or Revolution. This salutary mediating power is confidence and belief in the durability of right, which cannot even be conceived apart from continuity of obligation. We can only express our deepest regret at the enunciation, in the most gracious Royal Rescript, of a principle the establishment of which could neither have a beneficial influence on the interests of your Majesty, nor on those of the whole Empire.

NON-COMPLETION OF DIET.

90. With regard to the "completion" of the Diet, we have already expressed, in our first humble Address,<sup>m</sup> that we cannot consider the Diet as complete, and cannot therefore enter upon our legislative duties until those who have the legal right to be summoned shall have been invited to the Diet.

91. The most gracious Royal Rescript<sup>n</sup> in this respect, too, does not fulfil our just wish, but repeats that "the question of the completion of the Diet will solve itself as soon as we shall have partly modified and partly repealed the Laws of 1848, and settled the relations of Hungary to the Hereditary States, in accordance with the Royal views."

92. Accordingly, the "Incomplete Diet" would first have to accept as fundamental laws, in the name of the nation, the Imperial Diploma of the 20th of October, and the Patent of the 26th of February, Acts of the Absolute Power; it would have to send representatives to the Council of the Empire, to modify or cancel the most essential part of the sanctioned laws, and, after having deprived the Hungarian Constitution of its most important parts, after having transformed the Hungarian State-law, and shaped it according to Diplomas and Patents, and having sacrificed the rights of the whole country, including the rights of those not summoned, then, and then only, will the Diet be completed. This settlement of the question of the completion of the Diet is opposed to the laws of the land, and to the nature of constitutional legislation.

UNION WITH TRANSYLVANIA :

93. With reference to Transylvania, the Royal Rescript<sup>n</sup> says,—“Its incorporation with Hungary took place without the free consent of the Rumanian and Saxon nations, it never came actually into force; by the publication of the resolutions of one party it has become absolutely void, and must be considered as impracticable, as long as the non-Hungarian inhabitants of Transylvania see in the union any danger to their interests, and until the require-

<sup>m</sup> See First Add. §§ 29-36.

<sup>n</sup> Rescript, § 19.

“ments and interests of the Empire have been arranged on  
“a firm basis.”

94. The union of Transylvania and Hungary was solemnly decreed by the legal Diets of both Hungary and Transylvania, and the sanction of the King gave these Acts the full binding force of law.

enacted by  
lawful Diets  
of both coun-  
tries :  
sanctioned by  
King.

95. If the Saxons and Rumanes had been excluded from the Diet by the law, or if they had not been summoned by an evasion of the law ; if the Diet had been summoned in an extraordinary manner, or in an unusual form ; if the real majority had not decided, or if a part had been prevented from freely exercising their votes, there would be more foundation for asserting that the determination was taken without the free consent of the Saxons and Rumanes ; a doubt as to its validity might more easily be entertained.

96. But the Diet of Transylvania, which declared the union with Hungary, was summoned in accordance with the laws of Transylvania. According to the State-law of Transylvania, which was then in force, the Diet was composed of the Deputies of the Comitats, of the “Stuhls” of Szeclers and Saxons, of the Parliamentary Boroughs, of the Spiritual and Temporal Dignitaries, of the High Office-bearers, and the Regalists. At the elections for the Comitats the Saxon and Ruman nobles enjoyed as full right as the Hungarian. In the “Stuhl” of the Saxons and Szeclers and in the Boroughs there was no difference between the Saxons and Rumanes and the Hungarians, with respect to the electoral franchise. The Regalists and High Office-bearers were not exclusively Hungarian.

Diet of Tran-  
sylvania how  
composed ?

97. It was a Diet composed in this manner, according to the law which enacted—in the legally-prescribed way, and precisely by the same steps by which it passed its other laws—the Act of Union. It was passed by absolute majorities, and in this particular instance by very large majorities, to which many of the Deputies chosen with the concurrence of Ruman electors, and of those representing the Saxon districts, contributed their free and independent votes. When the will of the majority was declared no protest was raised on the part of the Saxons or Rumanes.

Act of Union  
how passed ?

98. It is true that the laws of Transylvania before the month of March (1848) alluded only to three distinct nations, the Hungarian, Szecler, and Saxon, and did not treat the Rumanes as a separate nation. It is true that these three nations had some rights, especially in certain offices at the disposal of the Diet, which the law then in force did not extend to the Rumanes. But with regard to the election of

Rumanes not  
treated as dis-  
tinct nation  
before 1848 :  
but electoral  
franchise not  
affected by  
nationality.



Deputies for the Diet the law knew no difference of nationality, and, subject to the legal qualification of property, &c., the Rumanes had the same active and passive rights as the Hungarians, Szeclers, and Saxons. In the Diet, moreover, the votes were not taken nation by nation, by means of the *votum curiatum*, but the resolutions were passed by the votes of individuals.

Saxons and  
Rumanes parties to the  
Act.

99. Since the Diet of Transylvania which passed the Act of Union was constituted in accordance with the strictest letter of the law, since Rumanes and Saxons exercised their full influence on the election of Deputies—took part in the deliberations of the Diet, voted freely and without pressure, and that in many cases for the union—is there any ground for asserting that Saxons and Rumanes were not parties to the Act of Union? Can the validity of the Act be disputed on that ground? Or was, perhaps, the consent of the whole Ruman and Saxon population to be necessary, by way of exception, to the validity of the law? The most gracious Royal Rescript really seems to take that ground, for any other interpretation of the objection taken is inconsistent with the facts that occurred. Is the same doctrine to be applicable to the Austrian Council of the Empire? Is every resolution to be invalid in which a portion of the Polish or Gallician members or people do not concur? In the Council of the Empire not only different races but different kingdoms are represented, and therefore cases might easily occur in which the objection would have more weight.

Objection that  
Act of Union  
was passed by  
privileged  
classes:

100. It is true that in the Diet which decreed the union the privileged class was chiefly represented, and that the great mass of the people, especially the Ruman and Hungarian people, had no right of influence. But this was the necessary consequence of the political position of Transylvania, which, up to 1848, as in Hungary, was mainly aristocratic. To allege this as an objection to the validity of the Act of Union would be just as groundless as to throw doubts on the validity of the laws of Hungary, by which the succession to the throne was first secured to the male, and subsequently female, line of the glorious reigning House of Hapsburgh—for these latter laws, too, were passed by the privileged classes, apart from and without any influence of the mass of the people.

holds equally  
against Act of  
Settlement  
conferring  
Crown on  
House of  
Hapsburgh.

Union came  
into full force:

101. There is also no ground for asserting that the Hungarian and Transylvanian laws enacting the union never came into full force. All the several electoral districts of Transylvania elected and sent representatives, in accordance with the Act of Union, and the laws passed

in connection with it, to the Diet held at Pesth in the year 1848, constituted on the basis of the representation of the people. That Diet was elected by the people ; in great part, indeed, by the Ruman and Saxon people ; Rumanes and Saxons were among the Deputies elected. Consequently, that part of the Act of Union which refers to the representation in the Diet, upon the basis of which we urge the summons of Transylvania, was brought into full force in all its bearings. Therewith also the union, accepted *de facto* by that part of the Transylvanian people who could exercise no influence on its accomplishment, was also *de facto* consummated. It was adopted and carried out by the Ruman and Saxon people, who exercised their right of election, as well as the Hungarians, from among whom those persons who enjoyed the confidence of the electors were chosen and appeared at the Diet.

Accepted "*de facto*" by whole people :

102. That change of internal administration which the union rendered necessary was confided by the law to the Hungarian Ministry. The Ministry had already, with the co-operation of those who best understood the relations of Transylvania, begun this work, which required much time, but its completion was hindered by the disturbance and war which broke out at that epoch. Finally, the Absolute System crushed the Constitution of Hungary and Transylvania. It placed Transylvania under the yoke of the German System, and tore it asunder from Hungary. Can the law be said no longer to possess binding force, because the practical execution of single parts was hindered by the intervention and convulsions of war, and of a temporary armed occupation ? Is it not more natural that—the convulsions and war having ceased, it having been solemnly declared that Constitutional Government should take the place of the Despotic System, and that the Hungarian Constitution should be re-established—the law should in its full extent be put in force ? If there is an earnest intention to set aside the Absolute System, there can exist no obstacle to prevent the complete execution of the law, which is the duty of the responsible Government of Hungary.

Dissolved by Absolute System.

If intention to set aside that system be earnest, nothing hinders complete execution of Law.

103. We know not how the union could endanger the national interests of the non-Hungarian inhabitants of Transylvania. The same Act which decreed the union declared the people of Transylvania free, gave them equality of rights, extended to all nationalities and classes civil and political privileges. The first consequence of the union was the instant abolition of that difference which had existed with reference to certain rights between the Hungarian, Saxon,

Act of Union how " dangerous to national interests of non-Magyar inhabitants ? " It gave equality of rights and privileges to all nationalities.

and Szecler nations on the one hand, and the Rumanian nation on the other. We shall pay the same regard to the national interests of the non-Magyar inhabitants of Transylvania as to those of Hungary. But for this very reason it is necessary that Transylvania should, according to law, be immediately invited to our Diet, that she may, conjointly with us, deliberate on the interests of the nationalities; for if the incomplete Diet, to attend which the Representatives of Transylvania have not been invited according to law, should pass measures during the compulsory absence of these members, and without their taking any part in it, there would be afterwards more reason to declare these measures void than that Act of Union, passed when they were present, and subject to their influence.

104. Further, we do not understand what are those claims of the Empire which the Royal Rescript wishes to settle with reference to Transylvania. Transylvania belongs to the Crown of St. Stephen, and on her none but the King of Hungary can have any right claims.

CROATIA.  
Laws of 1848  
made no at-  
tempt to in-  
corporate it;  
or to encroach  
on its rights.

105. The Laws of 1848 did not propose to incorporate Croatia into the Kingdom of Hungary, but they wished to regard her as a confederate state, which possesses a distinct position, a distinct territory, and was in a political union with Hungary under the same laws. Hungary did not wish, in 1848, to encroach upon the rights of the Croatian nation, and could not anticipate that those laws, which gave the Constitution, in the interest of justice and liberty, a broader basis, and substituted for the Dicasterial form of Government a Parliamentary form, would awaken in Croatia a bitter feeling of opposition. Hungary shared with Croatia all the rights herself possessed. The affairs of the internal administration of Croatia were before that subject to the Hungarian Dicasteria. The 58th Act of 1790,<sup>\*</sup> which placed them under the control of the Hungarian Council of Lieutenancy, was passed at the express wish of Croatia. The Laws of 1848 created no novel relation, no more intimate union, when they placed the internal administration of Croatia under the control of the Hungarian Ministry, instead of the Hungarian Council of Lieutenancy. In the administration of justice, too, the jurisdiction of the ordinary tribunals in Croatia was unaltered. In the legislature, when the Diet was re-organized on the broader basis

Its internal  
affairs subject-  
ed to Hunga-  
rian Dicaste-  
ria by 58th  
Act, 1790,  
passed at ex-  
press wish of  
Croatia.  
Laws of 1848  
substituted  
Ministry for  
"Council of  
Lieutenancy;"  
Left adminis-  
tration of jus-  
tice unaltered.

Act LVIII,  
1790.

<sup>\*</sup> Act LVIII, 1790:—"De Activitate Regii Locumtenentialis Consilii Hungarici, ad Regna Dalmatiæ, Croatiae et Slavoniæ extendenda."

of the representation of the people, the number of the representatives of Croatia was settled in accordance with her population, and thereby her share in the legislature was proportionately much increased. Nor with reference to language did these laws introduce innovations. The Deputies of Croatia formerly spoke Latin at the Hungarian Diet; in the year 1847, they declared, in pursuance of a direct commission from their own (local) Diet, that for the future they would speak Hungarian. Thus the Hungarian became the language employed in the deliberations of the Legislature by the express consent of Croatia. Not even a wish was ever signified that the Hungarian language should be used in the internal administration of that country.

Increased share of Croatia in legislature.

Hungarian became language of Diet by express consent of Croatia.

106. We are, then, justified in maintaining that Hungary had no wish to encroach upon the rights of Croatia; nor could Hungary, taking into account that Croatia, through her own Representatives, took part in the enactment of the said laws, entertain a thought that the sister kingdom would feel herself outraged by them. On the origin of these painful circumstances impartial history alone can pronounce a judgment. But it has now become a palpable fact that Croatia wishes to loosen the bond which has attached her for centuries to our country. We respect her interests and her wishes too much not to be ready at any moment to enter into negotiations for this purpose: *we* are not to blame for any delay, either in the maintenance, or equitable alteration of this Union. Further, should Croatia wish definitely to separate herself from us, to number herself among the Austrian provinces, and subject herself to their Government and Legislature—an hypothesis we cannot think the constitutional feelings of the Croats will suffer to be realized—we shall not attempt to place obstacles in the way, though, on the other hand, we cannot give our consent, for we have not the right to assent to a dismemberment of the lands belonging to the Crown of St. Stephen.

Diet will place no obstacles in way of separation.

107. The most gracious Royal Rescript has made no reply to the prayer of our first Address,<sup>p</sup> that Fiume and the Military Border might be invited to send representatives to our Diet. Practically, however, our request has been refused, although Fiume and the Military Border are integral parts of the Diet.

108. Fiume was formerly a separate and independent territory. It accepted the Pragmatic Sanction separately and independently many years after Croatia, and two years

Fiume:

<sup>p</sup> See First Add. § 30.

Annexed to Hungary by Maria Theresa at its own request;

after Hungary. On the 23rd of April, 1779, Her Majesty Maria Theresa, solemnly, by Letters Royal, sealed with the Royal Seal, declared Fiume to be a free port, and, at its own request, annexed it to Hungary. The following is the text of the Royal Letter:—" *Urbs hac commercialis Fiuminensis sancti Viti cum districtu suo tanquam separatum sacræ Regni Hungariæ Coronæ adnexum corpus porro consideretur atque ita in omnibus tractetur, neque cum alio Buccarano velut ad Regnum Croatia ab incunabulis ipsis pertinente districtu ullâ ratione commisceatur.*" They clearly prove that Fiume was not annexed to Croatia, but directly and not mediately to the Kingdom of Hungary. The Legislature of Hungary, by the 4th Act of 1807, reciting the said Royal Letters of Her Majesty Maria Theresa, again decreed the incorporation of Fiume with Hungary, assigned to its Governor a seat in the Upper House, and gave its Deputies seats and votes in the Lower House.

Directly and not mediately:

Incorporated by 4th Act, 1807:

Arbitrarily severed from Hungary, and annexed to Croatia under Absolute System. Restoration of Union demanded by both; still refused.

109. In consequence of these Acts, Fiume belongs to Hungary, and is, independently of Croatia and the Banal-Jurisdictions, an integral part of the same. The Absolute System, which suspended every Constitution, tore Fiume arbitrarily from Hungary, and as arbitrarily annexed it to Croatia. Hungary reclaims its legal rights: Fiume, too, demands them, and—as is well known—has, on repeated occasions, urged its re-annexation to Hungary, declaring that it considers itself an integral part of our country—that, *de jure*, it does not belong to Croatia, and does not wish to form part of it. The unexpected refusal to comply with this twofold request is in manifest opposition to our fundamental laws, and particularly to the 3rd Act of 1715,<sup>1</sup> and to the Coronation Diplomas, which guarantee the territorial integrity of the country.

MILITARY BORDER.

110. The Military Border, too, is a constituent part of the Diet, and ought to have been summoned to send Deputies, in accordance with the 5th Act of 1848. It is not only in opposition to the laws, but is inconsistent with equity, that whilst constitutional privileges are given or promised to all the peoples of the Empire, the Military Border should be excluded from the enjoyment of their benefits; that those citizens upon whom the burden of the defence of the country weighs more heavily than upon any other—whose individual liberty is limited by the necessary strictness of military rule—should be deprived of all share in the legislation which is accorded to the other citizens.

<sup>1</sup> See Note u, p. 17.

111. Your Majesty calls upon the Diet to take into consideration measures for the security and protection of the national rights of the non-Magyar inhabitants of Hungary.

NON-MAGYARS OF HUNGARY.

112. First, we declare every assertion unfounded which accuses the Laws of 1848 of encroaching on the national rights of the non-Magyar inhabitants of Hungary. These laws instituted many judicious arrangements for the benefit of the people, and removed, with the abolition of the Urbairal System, many oppressive obligations. They established equality of rights, extended civil and political privileges to all classes, made millions of the people free citizens of their country, and made all the nationalities equally participators of these benefits. By the 3rd paragraph of the 5th Act, Hungarian is declared to be the sole language of the Legislature; by the 2nd paragraph of the 16th Act, clause *c*, the same regulation is applied to the Comitats. This was no innovation, but the consequence of former laws; namely, the 8th Act of 1830,<sup>1</sup> the 6th Act of 1840,<sup>2</sup> and the 2nd Act of 1844,<sup>3</sup> sanctioned by continuous practice.

Their Rights not encroached on by Laws of 1848:

But extended.

Use of Hungarian as sole language of Legislature; of Comitats; no innovation.

113. But if the Laws of 1848 should have encroached on the interests and rights of the non-Hungarian nationalities, what redress did the Absolute System afford them for their injured rights, or with what protecting ægis did it shelter their national interests, when in 1849 it suspended the Hungarian Constitution and all the Laws of the land? It pronounced the equality of rights of all the nationalities, and carried its decision into effect, by conducting in all these lands the administration of public affairs, and of justice, according to the German system, and in the German language. Even the Servian Waywodina, introduced especially to favour the Servian nation, remained Servian only in name.

National interests how sheltered by Absolute System?

Equality of rights carried out by universal use of German language and system.

114. What favour do the non-German inhabitants of Bohemia, Gallicia, and many parts of the Hereditary States, where they constitute the overwhelming majority of the population, meet with, at the present moment, in respect of language? Is not, in all these lands, the German the language of the administration of the Courts of Justice? Are the interests of other nationalities than the German more considered or better secured than in Hungary at any period whatsoever of its history?

Interests of non-Germans of Bohemia, Gallicia, &c. how secured?

<sup>1</sup> Act VIII, 1830:—"De Usu Linguae nationalis."

<sup>2</sup> Act VI, 1840:—"De Lingua Hungarica."

<sup>3</sup> Act II, 1844:—"A magyarnyelv és nemzetiségéről."

115. There scarcely exists in Europe a State whose population has not been derived from various races : in some a considerable proportion of the inhabitants belong to other than the dominant nationalities. We venture to assert that in few of these were the rights and interests of the several races more considered and secure than in our country, up to the present time.

Comparison  
challenged.

116. We can challenge with confidence a comparison between the Rumanes and Slavonians of Hungary, in respect of their national rights and interests, and the numerous Rumanes of Greece and Russia, or the Slavonians who inhabit Germany.

Diet ready to  
make any  
changes re-  
quired by  
the interests  
of the Non-  
Magyar na-  
tionalities.

117. But we know that the constantly-developing feeling of nationality deserves respect, and must not be weighed by a measure derived from former times or older laws. We shall not forget that the non-Hungarian inhabitants of Hungary are, in every respect, citizens of the country, and we are prepared sincerely and readily to secure to them by law whatever their own interests or that of the country demand.

With this ob-  
ject Com-  
mittee ap-  
pointed.

Its Report.  
Legislation  
prevented by  
non-Comple-  
tion of Diet.

118. Had your Majesty, at the commencement of the Session, summoned to the Diet all those who by law were entitled to be summoned, Acts for the further security of all the national interests would have been laid before your Majesty to receive your Royal sanction. In the hope that the Diet would shortly be "completed," we had chosen a Committee, entrusted it with the necessary preliminary investigations, and ordered it to prepare a Report, upon which to found future legislation in this matter. This Committee has terminated its labours already ; but your Majesty still declines the completion of the Diet. How can then the incomplete Diet proceed definitely to pass laws—especially on those very subjects which concern more than any other the absent members—with respect to which their views and feelings must be taken into special consideration ?

SERVIANS.

119. With respect to those wishes of the Servians—which, as the Royal Rescript states, they made known in their National Assembly—for the security of their ancestral rights, privileges, and national interests, and with reference to which your Majesty wishes at a future period to send Royal Propositions to the Diet, what we have already expressed, with reference to the other nationalities, applies.

ABDICATION  
DOCUMENTS.

120. With reference to the Abdication, your Majesty declines to comply with the simple, equitable, and strictly legal wishes we expressed in our first Address. We can never accept the view that Hungary is a province of the Empire

of Austria. The Emperor of Austria is King of Hungary, but not because or by virtue of his being Emperor of Austria, but solely because, by virtue of the Pragmatic Sanction, the two distinct Thrones devolve on one and the same Sovereign. When His Majesty the Emperor Francis I, in the year 1804, accepted the title of Emperor of Austria, he, at the same time, distinctly declared<sup>a</sup> that by such acceptance the constitutional relations of Hungary should suffer no prejudice. Her Constitution and Independence remained unaltered, and the necessary consequence of this Constitutional Independence is, that the Abdication of the King of Hungary can only take place with the knowledge and assent of the Nation. Bearing in mind, however, the difficulties of an anomalous situation, we only wished that the formal omission at the time of a previous understanding should be supplied at least subsequently; we wished it out of regard to the future security of the country, and from the same motive it is our duty steadily to persevere in our request.

121. With reference to our countrymen condemned, on political grounds, to exile or imprisonment, we again repeat the prayer of our first Address.

POLITICAL  
CONDEMNATIONS.

122. This is what we consider it our duty to lay before your Majesty, with all respect and sincerity, respecting the details of the most gracious Royal Rescript.

123. Let us recapitulate the legal fundamental principles of the State-law of Hungary.

RECAPITULATION of principles of State-law of Hungary :  
Pragmatic Sanction.

124. The Pragmatic Sanction,<sup>a</sup> which the Hungarian nation concluded with the King of Hungary in the year 1723 concerning the succession, of its own free-will and accord, is a *bonâ fide* State-compact embodying the strictest reciprocal obligations.

125. The said Pragmatic Sanction, whilst on the one hand it confers the Right of Succession on the female line of the ruling House, establishes, as distinct conditions, that the King in Hungary shall not otherwise rule and govern than according to the "*own*" Laws of the Land theretofore passed, or thereafter in future to be passed—that he will not introduce into Hungary the form of Government of the other Provinces,—that on his accession he will always have himself legally crowned,—that before his Coronation he will issue a Royal Diploma, and in it secure to the Kingdom its territorial integrity, and the maintenance of its Rights,

<sup>a</sup> See Note b, p. 20.

<sup>a\*</sup> First Add. §§ 11, 17, 21; Note u, p. 17, g, p. 14; and *supra*, § 17.



Liberties, and Laws ;—that he will further confirm these covenants by his Royal Oath ;—and lastly, that, when all the issue of His Majesty the Emperor Leopold I. shall be extinct, the ancestral right of freely electing its new King shall revert to the Nation.

126. According to the Pragmatic Sanction there exists between Hungary and the Hereditary States no other bond of union than the identity of the reigning House and the indivisible and inseverable Right of Possession based upon it.

4th Act, 1741.

127. In Hungary, according to the 4th Act of 1741,<sup>v</sup> and the 3rd Act of 1790,<sup>w</sup> the *highest* sovereign functions can only be exercised by the legally-crowned King.

3rd Act, 1790.

128. In Hungary, according to the 3rd Act of 1790, the Heir to the Crown—upon whom the law bestows the title of “Hereditary King of Hungary” (*Hereditarius Rex Hungariæ*)—immediately on the succession devolving upon him, is bound, within six months of the day of his ascending the Throne, to have himself legally crowned, and during this interval can only rule in accordance with the Constitution.

10th Act,  
1790.

129. According to the 10th Act of 1790,<sup>x</sup> Hungary is a free country, in the whole form of its Government independent, subject to no other kingdom or people (*nulli alteri regno aut populo obnoxium*), but enjoys its independence and its own Constitution, according to which it is to be ruled and governed (*regendum et gubernandum*) according to its own laws.

12th Act,  
1790.

130. According to the 12th Act of 1790,<sup>y</sup> the right to create, interpret, or repeal Laws belongs solely to the legally-crowned King, jointly and in common with the legally-assembled Diet, and otherwise than in the Diet this right cannot be exercised. The Executive Power can be exercised by His Majesty only in conformity with the Laws.

8th Act, 1715.

4th Act, 1827.

131. In Hungary, according to the 8th Act of 1715,<sup>z</sup> and the 4th Act of 1827,<sup>a</sup> the granting and determination of the taxes, and of every other subsidy of whatsoever kind, and of the levies of recruits, belong, in their whole extent,

<sup>v</sup> See *supra*, § 40.

<sup>w</sup> See *supra*, § 8, and Note d.

<sup>x</sup> See *supra*, § 60, and First Add. § 14, and Note o, p. 15.

<sup>y</sup> See *supra*, § 84, and First Add. § 14, and Note p, p. 16.

<sup>z</sup> See *supra*, § 87, and Note j, p. 80.

<sup>a</sup> See *supra*, § 13, and Note k.

solely to the Diet, and can, upon no pretext, and upon no condition, even in cases of urgency, be taken from it. Except in and by the Diet, no tax can be imposed or increased, no recruit levied.

132. Your Majesty, on the contrary, claims, on the one hand, by virtue of the Right of Succession, established by the Pragmatic Sanction, a Coronation according to Law, and repudiates, on the other hand, all the conditions coupled with the Right of Succession and lawful Coronation, established by the self-same Pragmatic Sanction. Your Majesty will not restore in its integrity, but only in isolated fragments, the Hungarian Constitution, which absolute force has suspended, and whose maintenance inviolate is one of the conditions of the Pragmatic Sanction, and requires that the nation should renounce the most important parts of its Constitutional Rights.

Majesty claims Coronation ; but repudiates annexed conditions :

Restores only fragments of Constitution :

Requires renunciation of most important rights :

133. Your Majesty arbitrarily extends to Hungary, without the previous consent of the nation, the Imperial Diploma of the 20th of October, and the Patent of the 26th of February, solely emanating from your Sovereign authority, and requires that we should in all matters render conformable to these documents the deliberations and decisions of our Diet, and give them the title of fundamental Statutes.

Extends to Hungary arbitrary " *octrois* " and claims them to be held fundamental Statutes :

134. Your Majesty places Hungary, too, under the jurisdiction of the Council of the Empire, which you have been pleased to institute without the co-operation or consent of Hungary, of your own Sovereign absolute power. Your Majesty transfers to that Council of the Empire the right which Hungary has always exercised in her own Diet, of imposing taxes, voting the levies of troops, and generally of legislating on the most important questions, and without consulting the nation, or awaiting its consent, straightway directs the Diet to elect and send to the Council of the Empire a certain number of Deputies fixed by the Patent.

Places Hungary under jurisdiction of Council of the Empire ; transferring to it right of imposing taxes, &c. ; and directs Diet to send deputies to it.

135. By these ordinances the condition stipulated in the Pragmatic Sanction,<sup>b</sup> that " the King shall only govern Hungary according to the Laws theretofore enacted, or thereafter to be enacted, by the Estates in Diet assembled," is completely set aside ; nor is any regard paid to the ordinance of the Laws,<sup>c</sup> which decrees " that Hungary is a free country ; with reference to the whole form of its government independent ; subject to no other kingdom

Thus conditions stipulated in Pragmatic Sanction set aside :

Ordinances of Laws disregarded.

<sup>b</sup> Act II, 1723, § 9. See Note f, p. 13.

<sup>c</sup> Act X, 1790. See Note o, p. 15.

“ or people, but possessing its independence, and its own “ constitution.” Your Majesty abrogates by these ordinances our ancestral Constitution, calls into existence a new *octroyé* Legislative System, new fundamental Laws, and exercises alone the whole legislative power which belongs jointly and in common to the Sovereign and the Nation.

Sanctioned  
Laws not re-  
cognized.

136. Your Majesty declares decidedly that you neither do nor in future will, recognize one part of our sanctioned Laws, and that you do not consider yourself personally bound to such recognition ; and declares further, that until we shall have revised these Laws, and suited them to the ordinances of the Imperial Diploma by modification and partial repeal, the Coronation Diploma cannot become a subject of deliberation with the Diet.

Diet not  
“ completed.”

137. Your Majesty has made the legally-ordained Completion of the Diet—without which we cannot lawfully enter upon the creation of laws or deliberations on the Coronation Diploma—conditional on our, the incomplete Diet, first carrying out the ordinances of the Imperial Diploma and Patent, passing new laws on important matters, and carrying out all this in the absence of, and to the prejudice of, the legal rights of those not summoned.

Actual Admi-  
nistration un-  
constitutional :

138. Your Majesty's Government does not rule at the present moment in accordance with the Constitution ; on the contrary, the constitutional organs of the Internal Administration are harassed in the discharge of their office by the Arbitrary Power ; side by side, the unconstitutional agents of the Absolute Might are actively at work ; oppressive direct and indirect taxes, imposed without any participation of the Diet, are demanded and collected by military force ; and the Supreme Government of the country is legal neither in its form nor in its conduct.

Illegal taxes  
collected by  
force.

Diet will ad-  
here to Prag-  
matic Sanc-  
tion, and all  
conditions in  
it contained :

139. We are therefore compelled, as Representatives of the nation, with the most profound respect, and at the same time with the sincerity we owe to your Majesty, our country, and ourselves, to declare that we hold fast to the Pragmatic Sanction, and to all the conditions contained in it, without any exception, and that we cannot regard or recognize as Constitutional anything which is in contradiction to any part of it.

Will recog-  
nize no Union  
but that there-  
in established :

140. We hold firm to the Constitutional Independence of our country, and cannot therefore recognize any other union with the Hereditary States than that which the Pragmatic Sanction establishes.

141. We can neither accept the Imperial Diploma of the 20th of October, 1860, nor the intended application to Hungary of the Patent of the 26th of February of this year. We cannot accept the same as a basis for our deliberations, nor recognize it as binding for the Kingdom of Hungary.

Will not accept Diploma of 20th Oct. or Patent of 26th of February :

142. We also solemnly protest against the exercise, on the part of the Council of the Empire, of any legislative or other power over Hungary in any relation whatsoever. We declare that we will not send any representatives to the Council of the Empire ; and further, that any election by other instrumentality will be an attack on our Constitution, and we declare that any persons elected by such means cannot in any respect represent Hungary.

Protests against legislation on Hungary by Council of Empire ; Refuses to send Representatives.

143. Whereas, no one has a right to regulate the affairs of Hungary, except by authority of the lawful King, and of the constitutionally-expressed will of the nation, we hereby declare that we must regard as unconstitutional and unbinding all Acts or Ordinances of the Council of the Empire referring to Hungary or its annexed parts. We further declare that we cannot recognize as Constitutional with reference to Hungary, and therefore as binding, any State burden or obligation founded by the Reichsrath, any loan contracted by its authority, or the sale of any Crown property sanctioned by it, and that we shall regard all such as having taken place unlawfully and without the consent of the land.

All Acts or Ordinances passed, obligations incurred, loans contracted by said Council, declared invalid as regards Hungary.

144. We declare that we will maintain, unimpaired, the right of the nation to vote its supplies and regulate its taxes and military levies in its own Diet, and will never agree to the transfer of these rights to the Council of the Empire.

145. We hold firm to the Constitutional Right of the Country, in accordance with which the legislative functions, whether of passing or of repealing and modifying already sanctioned laws, belong solely to the Sovereign, with the Estates in Parliament assembled, and cannot be exercised by either separately. A one-sided exercise of the Legislative Power we cannot, therefore, regard as Constitutional ; we cannot accept any *octroi*, and cannot admit that sanctioned laws can be in any part suspended, modified, or annulled by one of the legislative factors. On this ground, we hold also to the Laws of 1848 in their full extent, and declare them binding, because they have been constitutionally passed, and solemnly sanctioned by the Royal authority.

Diet will not surrender its rights :

146. We declare that until the " completion " of the

Until its

"completion" will not discuss "Inaugural Diploma:"  
 Declares present Administration illegal; its officials liable to punishment.

Majesty has rendered mutual understanding impossible; and broken off the thread of negotiations.

Diet, prescribed by law, we will enter upon no legislation or negotiations concerning the Inaugural Diploma.

147. We declare, finally, that we are compelled to regard the present Administration of the Country, especially the despotic conduct of unconstitutional officials, as illegal, and subject to punishment according to the laws of the country; and the direct and indirect taxes imposed in violation of the law, and levied by military force, as unconstitutional.

148. We see with regret that your Majesty, by your gracious Royal Rescript, has rendered mutual understanding impossible, and has broken off the thread of negotiation. The Royal Rescript does not stand on the footing of the Hungarian Constitution, but it establishes as fundamental Laws the Imperial Diploma and Patent which emanated from absolute power, and are in opposition to our Constitution. We are bound by our duty to our country, by our position as representatives, and by our conviction, to the Hungarian Constitution, and on this footing alone our deliberations must take place. These two directions deviating from, nay opposed to one another, cannot lead to the wished-for union. Our most holy duty has pointed out the direction we must take. We must therefore declare, with the greatest sorrow, that, in consequence of the Royal Rescript, we are also compelled to regard the thread of negotiations through the Diet as broken off.

#### CONCLUSION.

149. It is possible that over our country will again pass hard times; we cannot avert them at the sacrifice of our duties as citizens. The Constitutional freedom of the land is not our possession in such a sense that we can freely deal with it; the nation has with faith entrusted it to our keeping, and we are answerable to our country and to our conscience. If it be necessary to suffer, the nation will submit to suffering, in order to preserve and hand down to future generations that Constitutional Liberty it has inherited from its forefathers. It will suffer without losing courage, as its ancestors have endured and suffered, to be able to defend the rights of the country: for what might and power take away, time and favourable circumstances may restore; but the recovery of what a nation renounces of its own accord, from fear of suffering, is matter of difficulty and uncertainty. The nation will suffer, hoping for a better future, and trusting to the justice of its cause.

We remain, with the most profound respect, at Pesth, on the twelfth day of August, one thousand eight hundred and sixty one, Your Imperial and Royal Majesty's most obe-

dient servants, the Magnates and Representatives of Hungary in Diet assembled :—

KALMAN GHICZY, m. p.  
*President of the House of  
Representatives.*

GEORGE COUNT APPONYI, m. p.  
*President of the House of  
Magnates.*

GEDEON TANARKY, m. p.  
*Notary of the House of  
Representatives.*

BELA BARON ORCZY, m. p.  
*Notary of the House of  
Magnates.*

To his Imperial and Royal Majesty Francis Joseph, our Most Gracious Sovereign, at Vienna.

<sup>d</sup> Act II, 1840:—"De Subsidio in Tyronibus ad Legiones Hungaricas oblato. Act II, 1840.

"§ 1. Ad benignam S. Majestatis S. ratione offerendi in Regni, postquam erga vota sua; in sensu legum fundata, de subversantibus rerum exterarum adjunctis, ac de actuali Legionum Hungaricarum statu nomine S. M. S. edocti fuissent in sequelam acceptæ super necessitate informationis, ad hanc supplendam, instar subsidii et absque nectendâ ullâ consequentiâ, salvi item Art. LXIII, 1741, § 2, Art. I, 1807, § 5, Art. VI, 1808, § 1, et Art. VII, 1830, peræque § 1, cautelis ad Legiones Hungaricas 38,000 Tyrones sponte offerunt, sequentibus sub conditionibus." (See p. 54, Note a.)

\* Act IV, 1741:—" \* \* \* Status et Ordines \* \* \* Corregimen et Act IV, 1741.  
Co-administrationem Hæreditarii hujus Hungariæ Regni, adnexarumque Provinciarum \* \* \* sponte et libere, hac cum expressa, quam leges Regni dictarent, declaratione, et absque ulla in futurum, per alios Regni hujus Regios Conjuges sumenda consequentia, salvaque omnimodo Autoritate Palatinali obtulerunt." (See p. 61, Note v.)

## P R O T E S T

*Adopted by both Houses of the Legislature on the  
20th day of August, 1861.*

1.

Preamble.

**W**HEREAS the Diet can act legally only upon the basis of the Hungarian Constitution, it has left nothing undone to restore and completely to secure that basis.

2. The completion of the Diet—as by law prescribed, the re-establishment of a responsible Ministry and of all suspended laws, were the first preliminaries necessary to enable the Diet to enter upon its legislative labours. Our first step was therefore to urge that these measures should be adopted; but our repeated addresses have remained without result, and the field of operation of the Diet has therefore been limited to the protection of the Rights of the Country, which, even in its incomplete state, it was its privilege and duty energetically to defend.

The Rescript  
has broken off  
thread of nego-  
tiations.

3. The most gracious Rescript has practically broken off the thread of negotiations, inasmuch as it attempts essentially to alter by arbitrary power our ancestral constitution in violation of fundamental compacts, and to restrict our deliberations to the basis and limits of the Imperial Patent, a basis and limits upon which we could not lawfully enter.

4. The most gracious Rescript has convinced us that His Majesty has not the intention to restore our Constitution in the spirit of the Pragmatic Sanction, to which we can never be untrue. This our conviction will be confirmed if, instead of the completion of the Diet and re-establishment of a Parliamentary Government as by law prescribed, a dissolution of the Diet contrary to the provisions of our laws should ensue.

The 4th Act of  
1848.

5. The 4th Act of 1848 decrees that the Diet cannot be dissolved until the Ministry has submitted to it the accounts

of the past year and the estimates for the ensuing one, and until the Diet has passed resolutions on the same.

6. The provisions of this Act have not been, and cannot be, complied with until the responsible Ministry has been restored and the Diet completed; for there exists now no legal Government to lay its financial statement before the House, and the settlement of the Budget is rendered impossible by the very fact that the completion of the Diet, as by law prescribed, has been decisively refused.

7. The said Act further decrees that a new Diet shall be convened within three months after a dissolution. If, therefore, after such dissolution a new Diet be not summoned to meet within the time by law prescribed, a fresh breach of the laws will have been committed.

8. We are therefore compelled to declare beforehand every such illegal act to be unconstitutional, and to be a further prolongation of the arbitrary rule of the past twelve years. We can make no active resistance to force, but against all and any such acts we make this our solemn protest, and declare:—That we do steadfastly adhere to our actually existing statutes, and among them to the laws sanctioned in the year 1848, still unrepealed by the Diet, and that we hold every measure of the Absolute Power in violation of them to be unconstitutional.

Protest  
against breach  
of this Act.

Declaration.



# IMPERIAL DECREES DISSOLVING THE HUNGARIAN DIET OF 1861.

## DECREE OF DISSOLUTION.

No. 11,536, 1861.

**WE, FRANCIS JOSEPH I**, by the Grace of GOD, Emperor of Austria, Apostolic King of Hungary, Bohemia, Galicia, and Lodomeria, King of Lombardy, Venetia, and Illyria, Archduke of Austria, &c., &c.

**To the Barons, Estates Spiritual and Temporal, and Representatives** of Our faithful Hungary, and the thereunto annexed parts, in the Diet, summoned by Us to meet on the 2nd of April, 1861, Assembled—

**Greeting, and Our Favour.**

### FAITHFUL SUBJECTS !

Preamble.

**Whereas** the Hungarian Diet has been nearly five months in active operation, but has not answered Our expectations, or responded to the calls We have addressed to it ; **and Whereas**, to our deep regret, We cannot anticipate any beneficial activity, in the interest of Our Kingdom of Hungary, from a Diet which has, to the greatest injury of the parties concerned, so completely mistaken its high duty at the present moment as to declare the thread of all possible mutual understanding broken off, because demands far exceeding the limits of what can possibly be granted were not complied with : **Now, therefore, We feel bound to Dissolve** the said Diet, summoned by Us to meet on the 2nd of April, 1861, and **We do hereby dissolve it**, and purpose, if possible, convoking a fresh Diet during the course of six months.

Dissolution.

**And We further assure you** of Our Grace and Favour. **Given** at the Capital of Our Empire, Vienna, in Austria, on the 21st day of August, 1861.

**Francis Joseph, m. p.**

(L. S.)

**ANTON COUNT FORGACH, m. p.**  
**IGNAZ ROHONCZY, m. p.**

ROYAL DECREE APPOINTING COUNT FRANCIS HALLER COM-  
MISSIONER PLENIPOTENTIARY FOR EXECUTION  
OF PREVIOUS DECREE.

No. 11,821, 1861.

**WE, FRANCIS JOSEPH I.**, by the Grace  
of GOD, Emperor of Austria, Apostolic King  
of Hungary, Bohemia, Galicia, and Lodomeria, King of  
Lombardy, Venetia, and Illyria, Archduke of Austria,  
&c., &c.

**To the Barons, Estates Spiritual and Temporal,  
and Representatives** of Our faithful Hungary, and the  
thereunto annexed parts, in the Diet, summoned by Us to  
meet on the 2nd of April, 1861, Assembled—

**Greeting, and Our Favour.**

FAITHFUL SUBJECTS!

**Whereas** in Our Gracious Royal Rescript of the 21st  
of August, of the current year, We have decreed the disso-  
lution of the Hungarian Diet: **We have named and ap-  
pointed** for the execution of the same, Our trusty and well-  
beloved illustrious Count, Francis Haller, of Hallerkeö,  
Grand Cross of Our Order of St. Stephen, Knight of the  
Iron Crown of the first class, Commander of the Order of  
Leopold, Grand Cross of the Royal Saxon Civil Order of  
Merit, Knight of the Sardinian Orders of Mauritius and  
Lazarus, Our Privy-Councillor, and Chamberlain, Pro-  
prietor of the 12th Regiment of Hussars, to be Our Royal  
Commissioner Plenipotentiary. **We**, by virtue of Our  
prerogative Royal, **order and admonish you**, to recog-  
nize, as your lawful subject duty, under pain of the punish-  
ment by law imposed on those who offer resistance, to obey  
the orders of the Royal Commissioner hereby appointed  
by Us, to submit yourselves to Our Royal mandates, and  
not otherwise to act than in accordance with them.

Recital of De-  
cree of Dissol-  
ution.

Count Haller  
appointed  
Commissioner  
to execute  
same.

**And We further assure** you of Our Grace and Fa-  
vour. **Given** at the Capital of Our Empire, Vienna, in  
Austria, on the 21st day of August, 1861.

**Francis Joseph**, m. p.

(L. S.)

ANTON COUNT FORGACH, m. p.

IGNAZ ROHONCZY, m. p.



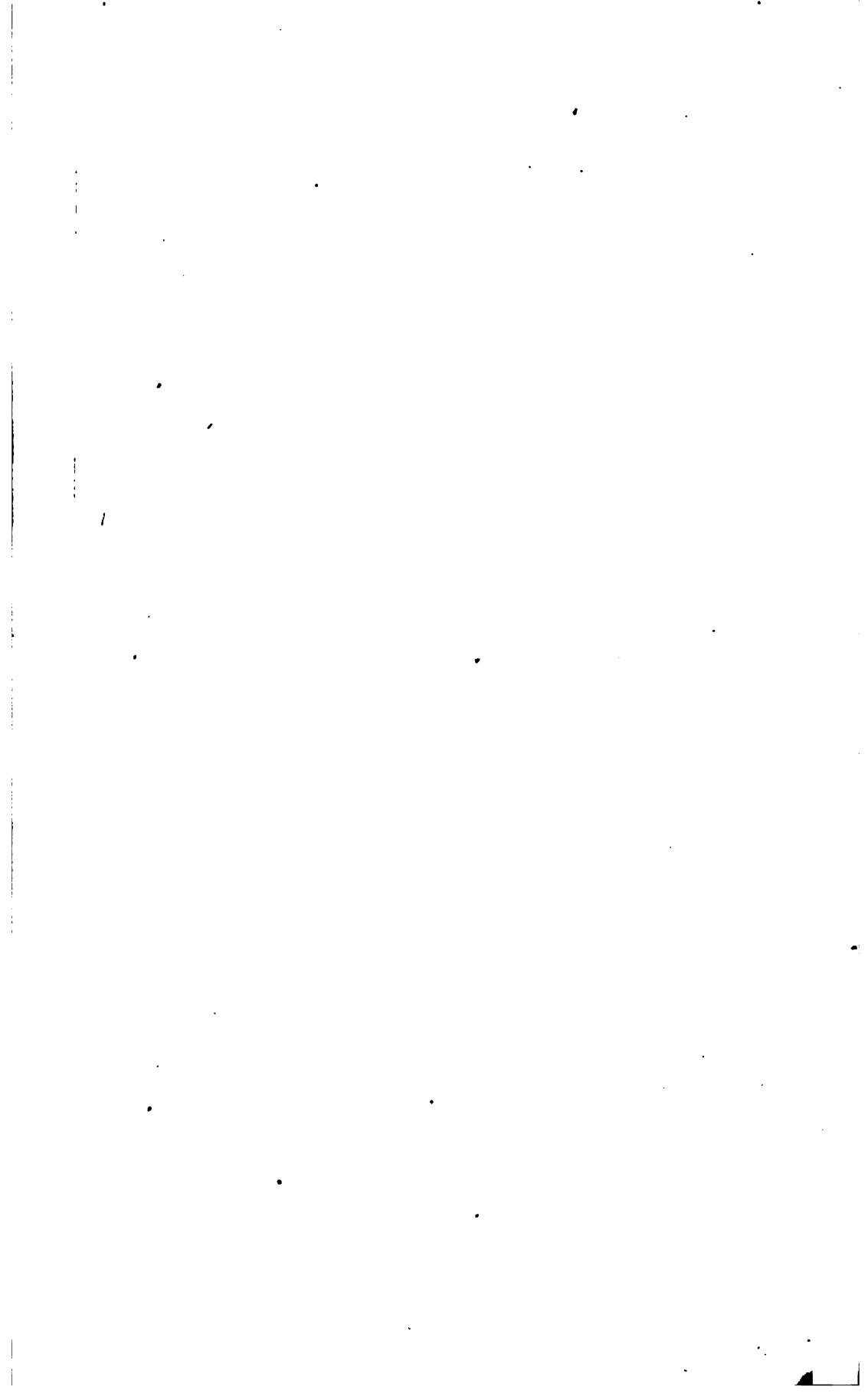
## INDEX.

- ABDICATION** of Ferdinand I, recited, 1. Documents relating to, invalid; remedy proposed (First Add.), 27. Objections repudiated, (Rescr.), 40; insisted on, (Sec. Add.), 90.
- APOSTOLIC**, title of, how obtained, 7, *note*.
- ARMY**, administration of, 53, 54.
- AUREA BULLA**, repeal of "armed resistance" clause in, 2, *note*. Text of, 75.
- BARONES REGNI**, 30, *note*.
- COMITATS**, or County-parliaments, 35. Constitution of, 42, *note*.
- COMMON-LAW** of Hungary, 3, *note*.
- COMPLETION OF DIET**. See "Non-completion."
- CONDEMNATIONS**, political. Prayer of First Address, 28. Reply, 41. Prayer repeated, 91.
- CORONATION**, principal object of convening Diet, 1, 7. The conditions to be complied with before, 29. Must take place within six months of Accession, 1, *note*. Alone confers the "*jura majestatica*," 61. The oath prescribed by law to be taken at, 2, *note*. Stipulated for in Pragmatic Sanction, 14. Taken by Maria Theresa and Leopold II, 15. By every king of Hungary but Joseph II, 3, *note*. Guarantees political integrity, 23.
- COUNCIL OF EMPIRE**, a body of foreigners, 13, 48. How constituted, 12, *note c*. To supersede the Diet of Hungary in matters of Taxation, &c., 32. Diet to send Deputies with least possible delay, 38. Reply of Diet, 45, 95.
- CROATIA**, known as *Partes Adnexæ* in the Statute-book, 4, *note f*. Case of, stated in First Address, 24, 25. In Rescript, 39. In Second Address, 86, 87.
- CROWN OF ST. STEPHEN**, 7, *note*.
- CUSTOMS' DUTIES**, 49.
- DEBATE ON First Address**, 30, *note*.
- DECLARATIONS** of Diet, 22, 56, 57, 68, 94-96.
- DIPLOMA OF 20TH OCTOBER, 1860**; Diet summoned in compliance with, 1, 6. Principles laid down by; object of, 8. Ordinances of 25th February, 1861, carrying it into effect, 9. A violation of Constitution; its effects, 12, 13. Answer of Rescript, 32, 38. An arbitrary *octroi*, 45, 46. Cannot lead to restoration of Hungary. Constitution, 67. Diet refuses to accept it, 96.
- DIRECT TAXES**, 48.
- DIVISION ON First Address**, 30, *note c*.
- ELECTORAL FRANCHISE**, 4, *note e*.
- FERDINAND V**, guarantees given by, 17.
- FINANCES**, influence of Hungary confined to a small share in, 32, 33. Self-taxation ever been right of nation; continuously exercised, 47-49. Complete Financial Independence, 55; example of, 56.
- Fiume**, not represented, 23. Its annexation and severance, 88.
- FOREIGN AFFAIRS**, unity in administration of, asserted, 34. Reply, 51-55.
- FRANCIS I**, Roman Emperor, proclaimed Consort of Maria Theresa, the right of guardianship of infant king transferred to him, 34. Reply in Second Address, 61, 62.
- FRANCIS I**, guarantees given by, 16. Assumes title of Emperor of Austria; his Manifesto, 20.
- INAUGURAL DIPLOMA**, 2, *note*. Issue of stipulated for by Pragmatic Sanction; issued by Maria Theresa, 14. By Leopold II, 15. Francis I, 16. Ferdinand V, 17. Rescript promises observance of customs with respect to it, 33. Deliberations on it impossible till settlement of questions at issue, 40. Diet declares it will not discuss it until "completed," 96.
- INDIRECT TAXES**, 49.
- INSURRECTION**, 58, *note k*.

- JOSEPH II, only king not crowned, 3, *note*. His ordinances declared void, 14.
- "JURA MAJESTATICA," belong only to king after coronation, 3, *note*, 61.
- LAWS OF 1848, electoral franchise conferred, by, 4, *note e*. Attempt to create personal-union; produce convulsions, 35. Certain principles of, confirmed; Emperor not pledged to them, 36. To be repealed, 38. Produced dissatisfaction in Croatia, 39. Reviewed in Second Add., 63-69, 77-81.
- LEOPOLD II, guarantees given by, 15.
- MARIA THERESA, Accession of, gives vitality to Pragmatic Sanction; guarantees of, 14. The General "Insurrectio" decreed in defence of, 58.
- NON-COMPLETION of Diet, objected to, 23-25. Answer of Rescript, 38-40. Reply of Second Add., 82-90.
- NON-MAGYARS, interests of, to be cared for, 23. Answer of 2nd Add., 89, 90.
- PALATINE, how elected, 3, *note d*. Regency and guardianship of king during infancy devolve on, 19. That provision altered, 34. Only in an exceptional case, 61, 62.
- PARTES ADNEXÆ, 4, *note f*.
- POSTAL SERVICE, as a medium of taxation, 49. Cannot be adduced as proof of real-union, 60.
- PRAGMATIC SANCTION, Emperor called to throne by virtue of, 1. Bond of union between Hungary and Hereditary States, guaranteed by, 8. Independence of country stipulated for by, 13. Clause 9, 13, *note f*. A reciprocal compact, 17. A difference between that of Hungary and of Hereditary States, 19. Violated by non-completion of Diet, 23; by refusal to acknowledge union with Transylvania, 24; by suspension of laws, 26. Rescript defines object of; deduces real union from, 33. A fundamental condition of, 44. Emperor sets aside everything contained in it but the guarantee of his own right of succession, 46. Object of, 49, 50. Expression "*by our royal absolute power*" inconsistent with, 66. Between whom and how concluded, 67. Union expressed in, consistent with safety of State, 71. Its covenants, 91. Emperor sets them aside, 93.
- REAL-UNION. See "Union, nature of."
- REICHSRATH. See "Council of Empire."
- RESCRIPT of June 30th, 1861, 31, *note*.
- RESIDENT, a Hungarian, to be accredited to Ottoman Porte, 52.
- SALT MONOPOLY, 49.
- SERBIAN WAYWODINA, case of, 40, 90.
- "SESSIO," Peasants', 4, *note e*.
- SLAVONIA, 23, 39.
- SUSPENSION OF LAW, reasons of necessity of, 9, 10. Protested against in First Add., 25-27. Will continue, 41. Declared illegal, 66. Not confined to laws of 1848, but embraces the most important statutes, 80.
- TAXES unvoted, illegal levying of, protested against, 25. To be continued, 41. Renewed protest, 65.
- TRANSYLVANIA, recognition of union with demanded, 24. Refused, 89. Answer in Second Add., 83-86.
- UNION, nature of, touched on in opening speech, 8. *Personal not real* (First Add.), 18-22. *Real not personal* (Resc.), 33-35. Arguments of Rescript answered in Second Address, 49-66.
- VERBÖCZY, codification of the law in 1514, 3, *note*.















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